

From: JULIE BORINA DRISCOLL [julieboridriscoll@sbcglobal.net]
Sent: Monday, December 30, 2013 6:26 PM
To: Rebecca Tolentino; Mike Wasserman
Cc: Mike Wasserman; Steve Tate; Dave Cortese(BOS);
joe.simitian@bos.co.santa-clara.ca.us; cindy.chavez@bos.co.santa-clara.ca.us; Ken Yeager; steve.ross@pln.sccgov.org; Leslie Little
Subject: MH Southeast Quadrant Plans/Reoccurring Meetings/Agricultural Economics

December 29, 2013

Dear Ms. Tolentino, (Copy addressed to our Santa Clara County Supervisor, Mike Wasserman, as my family's parcel is under Santa Clara County jurisdiction, but the destiny of this parcel, influenced by City of MH).

Thank you very much for your meeting plan and schedule for the Southeast Quadrant in Morgan Hill.

Respectfully, although I may attend--we have had far too many of these meetings that lead to the same square later, only to be recycled time and time again, with zero progress. This is the truth, while legal compliance is jeopardized.

My plans are to take this subject matter to the California State Level, where compliance to laws and guidelines are mandatory.

Spanning the years, the decades, it seems we are on another cycle, respectfully, as has recycled time and time again over the years, with no future economic progress for the Southeast Quadrant, the City of Morgan Hill, the County of Santa Clara, the infrastructure, the schools, the services, etc., as well as the long-term owners of property in the Southeast Quadrant, while the risk of breaking state and federal laws lurk with agricultural zoning, passe in an area that is beckoning for other land use(s) that will bring in profits to benefit all.

Respectfully, I wish to share the following, for review.

First, I will state that San Joaquin County, boasting over \$2 billion plus--in agriculture on an annual basis, has every reason and right to preserve agricultural zoning. Vast agricultural operations are working like fine machinery to bring a bustling economy in a University and major Port town. Agriculture, enmasse, in Northern California, with thousands of acres that span a vast geographical area--works. It builds several new schools, as one example, while fostering an area that is absolutely thriving with businesses, retail and eateries. Agricultural resources help beget more agricultural resources in this particular geographical area of California. Agriculture should be preserved

in San Joaquin County--as it brings in strong revenue for San Joaquin County and to California, with schools that are new and state of the art.

I am of the opinion, after many, many meetings of the past, in Morgan Hill, with several property owners voicing their opinions, with results that seem same each time or be at either an impasse, or resurfacing to replay again with no results, the following year, while taxpayer funds are being utilized to fund the meetings, that this matter, as a potentially reportable legal condition, needs to be escalated to the California State Level, possibly the State Attorney General's Office, California Department of Employment and to agencies who are under law to enforce employment laws, as well as the parameters that classify "agriculture."

I was just in the California offices for year-end business this past week--and, wish I had the time to bring in the discussion immediately, as I believe that talking oneself blue in the face, figuratively speaking, with the same opinions, as the barren fields with weeds and blight in the Southeast Quadrant persist--is a deception that needs to be brought under control, as the taxpayer funds could be better used elsewhere--to raise up the scores of the educational ranks, as one example, from number 45 out of 48, to a higher score. These subject matters that we, as property owners, have covered time and time again, in previous years, involving the southeast quadrant--is money that could be spent and used better elsewhere for the greater good of humankind.

Again, we can talk ourselves incessantly--the end result is the same--the economics of agriculture in the Southeast Quadrant, is probably, much worse than it is better from previous years, as this is the way the financial curve typically goes. JUST HOW MUCH REVENUE IS PRODUCED IN THE SOUTHEAST QUADRANT EACH YEAR--THAT MAKES THIS AGRICULTURAL PRESERVATION AREA A SENSIBLE IDEA TO MERIT REOCCURRING MEETINGS, WHERE PROPERTY OWNERS EXPRESS THEIR SAME OPINIONS--AS LAWS ARE IGNORED WHILE SUGGESTING AGRICULTURE IN THE SOUTHEAST QUADRANT, AS A REALITY?

Probe into what exactly is the motive and incentives to retain the Southeast Quadrant in a stagnant agricultural zoning nomenclature, when, if anyone takes a drive around Tennant and San Pedro, surrounding areas, it is clear these are barren fields with weeds--not agriculture. Just what are the incentives--while our schools and services suffer from lack of funding that a smarter land use could provide, for now and the future.

I believe we need to be objectively honest with ourselves and call the existing zoning what it is--development of some type, waiting to happen. In other words, there must be parameters, set forth by government at various levels, to accurately use the word and zoning of "agriculture." I am skeptical that what exists in the Southeast Quadrant at the present time, would accurately be described as agriculture in governmental regulations that describe the parameters of agricultural zoning.

We need to be ethical and honest with ourselves, while also being transparent in exploring these facts on the insistence that the Southeast Quadrant be an agricultural preservation zone, when it is truly evident, that it is not suited for this land use application in 2014. This insistence for agricultural preservation, in an era passe for 2014, places property owners at risk, when they farm, as employment of farm workers have compliance parameters that are impossible to meet in this 2013 economy. It truly runs the risk of legal non-compliance, that breaks laws, can incur fees and fines, with penalties, not to mention the deviation from fair employment practices.

I am of the belief that the state and federal "watching" agencies need to be brought into the Southeast Quadrant, to oversee this recycling of the same subject matter, on reoccurring time intervals, that lead no where--but the same square one, time and time again--while our schools, that could benefit from the funding, suffer budget cutbacks, causing rankings to sink. Ranking 45 out of a possible 48, in the days when I attended school, was considered an "F." California cannot afford "F" for a bright, competitive future, that spending time wisely, could help by utilizing the funding where it truly can do alot of good--for not only the children in school, but society and society's future--as we will reap, as a society, the consequences of "F" or the rewards, of "A" in education--all of us.

Bottom-line, as I write my letters and travel again to the California State Offices to express this legal concern of non-compliance to state employment laws, as agriculture is blatantly financially impossible to continue on into the future, on small farms, such as is in the Southeast Quadrant, the concern of major laws being broken, expressing opinion while on business, I hope we will find better use for the barren fields, with weeds, that is being called "agricultural zoning" in an area where the land use could be better utilized to benefit the City of Morgan Hill, the County of Santa Clara, with deficits for a long-term future, the property owners, the entire societal infrastructure and society.

Are there facts and figures of what these barren fields with weeds in the Southeast Quadrant reap per year for the aforementioned? How vast is the differential between a true agricultural powerhouse, as exists in Northern California, with billions in annual revenue, compare to the Southeast Quadrant?

I think that when all of these factors are very seriously considered and evaluated--especially the consequences of non-compliance to laws, the existence of agricultural zoning in an area that is DEEMED ABOVE AVERAGE OR HIGH INCOME, according to research, we will find a mismatch that exists for the overall demographics, as well as the requirement for legal compliance.

Thank you for your review.

We have been through many meetings with neighbors over the years, with City of Morgan Hill involved. Each time, the familiar subject line remains the same and that is that agriculture is no longer viable in the Southeast Quadrant.

Respectfully, funds are utilized to host these meetings that end up with identical results. The funds could be better utilized, given that agriculture is really not feasible, manifested by barren fields and weeds, in the Southeast Quadrant in 2013, for schools, or for public services, while the City of Morgan Hill and County of Santa Clara, search for more lucrative endeavors as a land use. We have California schools, ranking number 45 out of 48 states surveyed, in educational ranking. The money spent on these agricultural preservation meetings for Morgan Hill, as has been spent over the decade(s), is not productively leading anywhere, as it seems, while people express opinion after opinion of how agriculture is not viable. It is like a Holiday Carol that is played every year-end that resurfaces, with no change. Only, this status quo is detrimental to the property owners, as is any status quo, which is not progressive.

Julie Borina Driscoll, Trustee and FLP General Partner
Borina Trust and Borina Enterprises, LP

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DEVELOPMENT
SERVICES

JAN 16 2014

CITY OF MORGAN HILL

January 14, 2014

cc: Mayor Steve Tate

Morgan Hill City Council

Morgan Hill Legal Counsel

Morgan Hill Planning Department

County Supervisor Mike Wasserman

Santa Clara County Board of Supervisors

Government Offices Deemed Appropriate
with Other Distributions

Ms. Rebecca Tolentino
Senior Planner--MH Southeast Quadrant
City of Morgan Hill
Peak Avenue
Morgan Hill, CA 95037

Dear Ms. Tolentino,

Thank you for the correspondence, information and notification on the latest efforts involving the Southeast Quadrant of Morgan Hill. This constitutes my input, in a thinking beyond and out of the box approach, by reaching out to state and federal levels, emphasizing the requirement that all must comply to state and federal laws that local governments should support, with appropriate zoning. County/City has its financial issues.

The following letter to California State Attorney General, Kamala Harris and the California State Department of Employment defines my viewpoints, 2014. State and federal laws can be violated when there is an insistence for agriculture passe. There may be recollection, in earlier years, I performed an economic analysis in regard to costs of farming in the Southeast Quadrant which was sent to the professional consultants who City of Morgan Hill hired, illustrating the economic infeasibility for most property owners to farm in the Southeast Quadrant, 2014--reason for the barren fields with weeds with blight, that endure to this day. The truth--anyone take a drive around and see for yourselves. We seem to recycle thoughts with meetings on cycle intervals with no progress.

Thank you for your consideration of the aforementioned objective, financial analysis, in this series of meetings, including it as a respected perspective, of MH SEQ realities, 2014.

Local Government SEQ officials - Economic Issues
(Respectfully, no pictures enclosed - to encourage all to see for themselves the barren fields w/ weeds/ blight).
Julie Borina Driscoll
Julie Borina Driscoll *LP/Trustee*

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January 14, 2014

cc: Government & Distribution as
Pertinent and Appropriate (w/o encl).
California State Department of Employment
3321 Power Inn Road
Sacramento, California 94257-2021

Kamala Harris, J. D.
California State Attorney General
Office of the State Attorney General
Public Inquiry Unit
Sacramento, CA 94257

Dear State Attorney General Harris, Managers at California State Department of Employment,

Your review and consideration of the following, with involvement, would be appreciated, please.
The main issue is 2014, Morgan Hill, Southeast Quadrant, agriculture passe is unlawful.

I think we need agencies on the watch from the State and Federal levels, on an impasse, recycling. I will include pictures and a report from a top national commercial real estate firm, Marcus and Millichap, to prove points about MH SEQ. Agriculture, in certain areas of California, like San Joaquin County, **boasting over \$2 billion in agriculture per year is profitable** and farmers can comply to laws, to include paying minimum wage to workers at approximately \$12.00 an hour--but this is only the beginning, as there are A-Z costs involved above and beyond the employment of workers factor, such as workman's compensation, insurances, fuel costs to deliver the crops, transportation costs, supply costs. **MORGAN HILL, SEQ, LONG BEFORE THE CROP IS HARVESTED--FINANCIAL RED, THE REASON FOR BARREN FIELDS WITH WEEDS AND OTHER FORMS OF BLIGHT, AS PROPERTY OWNERS WAIT FOR DEVELOPMENT TO EVOLVE AS IT DID ON THE OTHER TWO MAIN FREEWAY 101 OFF-RAMPS, COCHRANE ROAD AND DUNNE AVENUES.** Property owners, some long-time, generational, being cash squeezed into a corner, to survive, until they give their properties up for a fraction of what the big development to follow receives. I intend to examine this justice issue with UOP's McGeorge Law School alumni base, known for its Law School, to determine if unjust enrichment parameters apply and to discourage this to happen to other property owners--should there be **retroactive settlements**, as those who have waited years, are dependent upon their land for retirement needs, long-term care where applicable and when, seemingly, taken advantage of by being forced to sell, via cash squeeze out, for considerably less than what developers reap subsequently, do we have justice issues to adjust?

Spanning years, City of Morgan Hill has insisted that a certain area within Morgan Hill remain zoned Agricultural. Sustainable in the sixties, less so and declining more so, for most property

owners in time, this zoning, 2000-2014, is accompanied by barren fields with weeds and blight--**NOT** agriculture. **Economics:** Most property owners would **NOT** be in compliance with federal and state employment laws, if the area called the **City of Morgan Hill Southeast Quadrant**, was to remain under agricultural zoning, while all around, there are major residential and retail developments. Economically, this has been repeated to City of Morgan Hill officials, year after year, time after time, but the property owners have been ignored. Time, meetings, money is wasted, to recycle the same issues and processes, that could be better spent on infrastructure, our educational system, the community. I believe that it is time that the deception of agricultural zoning, in an area with barren fields, with weeds and blight, as actual pictures indicate, as well as a high income demographic area, causing a disproportional shift in the cost of living and economics, be examined. **Add to this, the "bunching up" factor--when agricultural workers are squeezed into an area where the cost of living is higher, based upon higher incomes, as the Marcus and Millichap Presentation, Research and Analysis, provides--one lease, signed by a family of four, on properties, can quickly turn into 2, 3, 4 and more families living together to afford the fair market rent, on minimum wages. This economic disproportion brings in a variety of State Fire Laws for review. ZONING ISSUE IS REASON THERE IS NEED FOR OBJECTIVE EVALUATIONS, FROM OUTSIDE GOVERNMENT AGENCIES, ASSURING COMPLIANCE TO LOCAL, STATE AND FEDERAL LAWS. (Clarification: My own family's property, Borina-Tennant Enterprises, LP, of which I am the General Partner/Trustee, is under Santa Clara County jurisdiction, however, City of Morgan Hill has influence on the zoning/use of the property--ANOTHER LEGAL ISSUE--although affected, we are NOT allowed to vote as property owners whose property is affected). Is this a legal rights violation?**

Questions Evolve, with appreciation for Assistance from Governments, please.

- 1) Why is the City of Morgan Hill repeatedly asking property owners to endeavor the unlawful and illegal, by state and federal employment standards through insistence of agricultural zoning, when financially, known most cannot comply?
What are motives/incentives behind SEO insistence on agriculture passe'?
- 2) **Barren fields with weeds, blight--is not agricultural zoning. Are there parameters from the State and Federal levels that define Agriculture?**
Example: Must it be a certain amount of dollars reaped from a 5 acre parcel, must it be a certain amount of reportable produce or fruit, agricultural product produced, in order to define agriculture, by state/federal standards? Comparisons?
- 3) What is underneath, the recycling of meetings, on the same topic, for the MH Southeast Quadrant, time after time, spanning years--**property owners voicing their economic issues with farming in the 2000's, time and time again--being ignored**, only to have the recycling insistence of agricultural zoning reappear, with meetings and considerable taxpayer, time and money spent? Is there a requirement that needs adjustment, as this recycling is interval--eg. Holiday Carol--as dependable as the sunrise, on time intervals, with no difference nor productivity being accomplished in the Morgan Hill Southeast Quadrant. Barren fields, picture.





February 3, 2014

City of Morgan Hill
Community Development Department
17555 Peak Avenue
Morgan Hill, CA 95037-4128

Attention: Rebecca Tolentino

Subject: SE Quadrant Land Use Plan

Dear Ms. Tolentino:

Santa Clara Valley Transportation Authority (VTA) staff have reviewed the Draft EIR (DEIR) for a high school for 1600 students as well as an agricultural preservation program, zoning, and General Plan Amendments for 1,290 acres for an area bounded by U.S. 101, San Pedro Avenue, Carey Avenue, and Maple Avenue. We have the following comments.

Freeway Analysis and Mitigation Measures

The transportation analysis in the DEIR finds significant impacts on US 101 between in both the "Existing Plus High School" and on this "Existing Plus Southeast Quadrant" scenarios. A mitigation measure is identified to develop Transportation Demand Management (TDM) measures to reduce automobile trips, but concludes that the impact would remain Significant and Unavoidable. In addition, under the discussion of intersection impacts the DEIR notes that the City's Traffic Impact Fee Program "is structured such that it does not collect fees to fund improvements to regional facilities (i.e., those under the jurisdiction of Caltrans or VTA). Thus, there is no legal mechanism to facilitate the collection of fees from local development projects..." (p. 3.13-56)

VTA requests that the City include a mitigation measure in the DEIR for the project to commit to voluntary contributions to the US 101 Express Lanes project and/or other regional transportation improvements on the impacted freeway or parallel corridors. VTA notes that certain cities in Santa Clara County have included commitments to provide such voluntary contributions as mitigation measures in CEQA documents. In addition, VTA disagrees with the statement in the DEIR that "there is no legal mechanism to facilitate the collection of fees" to fund regional facilities. VTA notes that in the cases described above, voluntary contributions to fund regional facilities will be executed via ad hoc funding agreements between the City and VTA, triggered when the project applies for a building permit or other approval milestones.

Potential Transit Service Increases

The DEIR states that, "The nearest VTA bus route to the High School site is Route 16... At this point, VTA has not indicated that they plan to modify Route 16 [to serve the proposed high

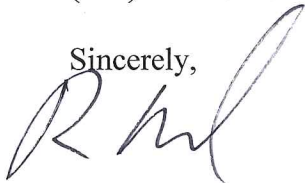
City of Morgan Hill
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Page 2

school]; however, VTA does regularly reevaluate its bus routes and has modified routes if there is transit demand in specific areas. As such, Mitigation Measure TRANS-6a is proposed requiring the installation of a bus stop suitable for VTA use along the High School's street frontage." (p. 3.13-73)

VTA agrees with the statement that any modification to Route 16 to serve the site would be evaluated based on sufficient transit demand among other factors. VTA notes that any decisions on transit service changes would be made by the VTA Board and would follow the guidance of VTA's *Transit Sustainability Policy & Service Design Guidelines* (TSP/SDG). The TSP/SDG were adopted by the VTA Board in February 2007 and contain information about land use thresholds and other criteria for considering potential service changes.

Thank you for the opportunity to review this project. If you have any questions, please call me at (408) 321-5784.

Sincerely,

A handwritten signature in dark ink, appearing to read 'R Molseed', is written over the word 'Sincerely,'.

Roy Molseed
Senior Environmental Planner

cc: Erik Alm, Caltrans
Brian Brandert, Caltrans

MH1001

From: JULIE BORINA DRISCOLL [julieboridriscoll@sbcglobal.net]
Sent: Monday, February 03, 2014 5:15 PM
To: Rebecca Tolentino
Cc: Mike Wasserman; Steve Tate; Marilyn Librers;
richard.constantine@morganhill.ca.gov; Larry Carr; Renee Gurza; Dave
Cortese(BOS); Ken Yeager; cindy.chavez@bos.co.santa-clara.ca.us;
Mike Wasserman; joe.simitian@bos.co.santa-clara.ca.us; Carl
Hilbrants; steve.ross@pln.sccgov.org; fcilia@dsj.org;
craig.farley@fire.ca.gov; Robert Serventi
Subject: City of Morgan Hill Environmental Impact Review on February 3, 2014

February 3, 2014

Dear Ms. Tolentino,

This is supplemental to letters that have and will be written to County, State and Federal levels, on the subject of Agricultural Zoning, 2014, in the Southeast Quadrant of Morgan Hill. The issue of legal compliance is an important one, as are placing the needs of humans first, even though the environmental report is important. Economics is at the baseline of it all.

Respectfully, it is my belief that the City of Morgan Hill's Southeast Quadrant, just needs to rise to the occasion of surrounding environments, to include high technology, all around. Agriculture passe places a burden, on the population, system and mode of living in 2014, especially in areas of humanitarian services and deficiencies in economic strength, factors that are essential in promoting a healthier, modern quality of life. When people are denied the essentials in thriving, it is a disservice, in any community.

One of those essentials, are to extend appropriate zoning labels, that bring with it, the economic growth, that cultivates strong communities and futures.

Today, February 3, 2014, the Environmental Review, Draft EIR, is understood to be available for public review. This e-mail provides additional perspectives for review, please, that have been submitted to State Attorney General Kamala Harris, in process of being submitted to the employment compliance watching agency to assure that Employment Laws are in compliance, California State Employment Department, as I consider furthering this to the U. S. Department of Agriculture and U. S. Department of Labor. The laws governing employment are vital factors in the Southeast Quadrant, as without the crews, agriculture is not a viable zoning nor land use application. Crews can only be hired when the farming operation is lucratively and progressively producing the financial revenue base, following laws with crews paid minimum wage. Without all of this, agricultural zoning is a wrongful label to apply to the barren fields with weeds, that underscore agriculture is passe in 2014. Banks do not loan to agricultural zoning. How, then, does any agricultural operation even begin, as an entity within itself, to support itself, let alone

anything beyond it, like business does, as an example--providing to the tax revenue base? The impossibility of this in 2014, in the SEQ, renders the zoning label of agriculture, inaccurate. 75% or more of State and Federal funding being extended to cities/

counties--I believe it is ethically appropriate that the zoning of land reported to the State and Federal governments, be actual and correct, by parameters. In other words, if parcels are zoned agriculture, each parcel must produce "x" amount of revenue every year in agricultural crops. If not, it fails the test for agricultural zoning as a land use

and cities are PROHIBITED BY LAW, to mandate agricultural zoning, where it is very clear and evident, that agriculture in a given area, is passe, as it does NOT meet the criteria of agricultural zoning. I believe that this would bring to the surface a more realistic evaluation and analysis--should any given area be zoned, "agricultural preservation." Parameters of reality applied in the analysis and evaluation--as is it lucrative, practical, compliant to laws to have agriculture, impacts on the community as a whole. Actual economic figures, profit and loss statements, cost of agricultural farming,

should all be in the Environmental Impact Report review. This would help the government officials, property owners and the citizenry, use mathematical and practicality

tools of logic, to apply a systematic reasoning approach on the subject: Is Agricultural Preservation really in the Best Interest of any given community.

If 75% of Counties'/Cities' funding is from the State and Federal Level, it is my belief that the zoning should reflect accurately the use of land. Anymore than I can call parcels of land in the Southeast Quadrant, "beachfront" property, can these same parcels be accurately labelled as agricultural in 2014. I believe that the parcels should be transformed into accurate zoning labelling, consistent with a future land use application, that reaps the economic strength of a strong community, be it residential, commercial, sports use, public services, anything but agricultural, as it is impossible to reap any economic agricultural profit in the Southeast Quadrant. As illustrated with pictures, barren fields with weeds--this is not agriculture.

I am of the belief, that Humanitarian Impacts need to be evaluated with this same study, involving Agricultural Preservation, as even though Environmental is important, the humanitarian impact should be first.

Humanitarian impacts are direct with economic, financial impacts that bring about either a strong community service base, if it is a strong financial base, or a weak community service base, with lack of adequate services, if there is a weak financial tax revenue base. Hypothetical businesses that thrive on now agricultural zoned property, versus agricultural zoning that really does not command anything lucrative but sits, can make this very vital difference, in the quality of lives that the population reaps in a community.

Let us take for an example, the situation with adequate hospitals in the South County, St. Louise Hospital in Morgan Hill, which has closed, as there is knowledge that there was a considerable amount of money lost on operation of this project, as well as the Daughters of Charity, St. Louise Hospital in Gilroy, selling that branch currently, as economically, it cannot compete with the changes in the health system. Now, how is agriculture, parcels onto themselves, expected to generate revenue, if the farming community CANNOT generate enough revenue to initiate a crop to harvest, let alone incorporate the State and Federal requirements necessary to be in compliance. How can it contribute to vital services in a Community when, in reality, as parcels within themselves, cannot generate enough revenue to even sustain itself, without outside help from other economic sources. This economic scenario beckons for positive, constructive changes that more lucrative business endeavors, to include Sports and Recreational usages, can bring into the equation.

I am of the belief that agricultural preservation should be extended to the communities which can generate \$2B plus per year, like San Joaquin County and that the Southeast Quadrant should gravitate to a land use that will be optimistically, but equally as economically strong, in its own application--to support the Community, the property owners, alike.

Last week, as believed, I happen to see Mayor Don Gage, our former Santa Clara County Supervisor for the SEQ, as well as Gilroy's current Mayor. Mr. Gage mentioned, in words to the effect, as recollected, 30 minutes can be very critical in survival, by having a hospital nearby. I can, from experience, with my now late, elderly mother, who survived congestive heart failure twice, state that 30 minutes, is too long a wait. Very positive comments can be extended to the emergency medical teams, who responded almost instantaneously after the 911 calls. However, in relation to a hospital being 5 minutes away, (O'Connor from Cypress Avenue/City of San Jose Senior Center area versus Good Samaritan in Los Gatos-10 to 15 min), the difference can literally be life and death, as I was informed from the emergency crew. It is absolutely vital to have patients reach the emergency ward for immediate treatment, that emergency vehicles cannot provide. The emergency crew informed me that if they had to take my mother to Good Samaritan at that time (10-15 min), where most of her doctors were staffed, versus O'Connor, (about 5 min) she would not make it. I told the emergency crew, in essence, to do whatever it takes to save her life. She survived two episodes as a result of being so close to a quality hospital and lived a quality of life, unaffected by the congestive heart episodes, for several years afterwards. Point being, it is my belief, given that the financial economics of Santa Clara County have been in deficit--it may be a positive maneuver to have City of Morgan Hill, bolster up the cumulative economic and tax revenue picture, from lucrative businesses and land uses, the economics and financial picture in Morgan Hill, to bring in a Kaiser-Permanente,

which is strong, as the hospitals in the area, serving the Community well for many years, may not be able to sustain. (Kaiser Permanente, does not need to be as large as the one on Lawrence/Homestead, built recently, in Santa Clara--there are smaller versions for smaller towns, that offer the quality of care and technology, state of the art, available at Kaiser Permanente). I think this is exceptionally important, as according to a survey/presentation, there seems to be a strong population of middle to older, baby-boomer generation, in the Morgan Hill area, that may need access to quality healthcare as they become older. Plus, there are plans to build a high school on the corner of Murphy and Tennant, in Morgan Hill to accommodate 1600 students. Add the students of other Morgan Hill schools, plus the population--***it is just too risky for Morgan Hill to be without a hospital system of its own.*** The only way it will get a hospital of its own--is through being financially strong. Agriculture will NOT provide this economic base for quality health care in Morgan Hill for its residents.

PERCHLORATE--In the past, there have been properties affected by perchlorate. Perchlorate, as understood from a Santa Clara Water District engineer, can find its way into plants. It is not known when the plume may appear--anywhere, as the Olin Plant was located toward the east, on Tennant Avenue, nearby to where the Safeway Shopping Center is at this time, on Tennant. This would render almost any crop possibly unsafe to eat, should the plume appear. If lettuce, as an example, is planted--the lettuce absorbs the perchlorate and it results in a less than safe food supply. (Perchlorate is understood to be salt-based and this could possibly contribute to heart and blood pressure disorders).

Population and Housing--We are in need of more affordable housing that is nice and extends the opportunity for infrastructure, that builds strong Communities, to live in Morgan Hill.

LEGAL CONSEQUENCES OF SEQ AGRICULTURE IN 2014:

Finally, to reiterate--for most, agriculture in the Southeast Quadrant is unlawful, by definition, before a crop even is planted. The reason for this is that there are State and Federal compliance standards to laws, especially, where work crews are involved. If the property owner/farmer/orchardist cannot afford to pay minimum wage, workman's comp, insurances and/or other requirements--does not comply, the fines and punitive counteractions can be serious. By definition, if the economics, a property within itself--that supports itself, by income and expenses/profit, cannot balance the balance sheet, agriculture is passe. There needs to be another lucrative land use to improvise, with proper agricultural zoning applied, which is applicable to the land use and economics.

Agriculture on what has become a busy area, to become even busier with the projects that are being welcomed and built, is hazardous. Tractors and farming equipment need roadway to maneuver under normal farming and orchard conditions.

This is absolutely impossible to do, more so in time, in areas of the Southeast Quadrant.

I am of the belief, that unless and until these realizations are internalized, to be realities for real in modern day living standards for Morgan Hill, that a disservice is occurring for the Morgan Hill Community, its property owners and residents of the Southeast Quadrant.

If Sports and Recreational use will generate the dollars necessary to enhance the quality of life for all involved in Morgan Hill, then perhaps, the entire area should become Sports and Recreational use, with supporting businesses and other supporting entities in the area. Again, it is the infrastructure and the services, such as health services, that will benefit from a strong lucrative base, along with the population in Morgan Hill.

Utility Services--Most of the utilities in the Southeast Quadrant, are long-term generational and ready for replacement--passed in 2014, under the past utility designs of water wells and septic tanks. These possibly pose more of an environmental impact than once before, as land can be affected by this type of utility service, versus a modern system, that uses the latest technology and safe drinking water pipe construction, as well as efficient civil engineering designs in its use and applications.

Transportation--If the bullet train is to be built and brought to pass through the City of Morgan Hill, to be utilized by the residents, we need to be commensurately competitive, with other cities who utilize the same services.

Residences, as shortage overwhelms the demand, it would be a lucrative land use to turn parcels of land into additional affordable housing so more can afford the American Dream. As my letter indicates, there is a real problem, violating State and local laws, when agricultural workers, who are on minimum wage, working seasonal, especially, cannot afford fair market rent. "Bunching up" with 2, 3, 4-5 families living together occurs, to have a place to live. This violates State and Local Laws. Add to it, if there are those who are not in the United States legally. The scenario outlined tends to encourage the aforementioned.

High Income Area--A study performed in 2012 or thereabouts, strongly outlines that Morgan Hill is a high income area, per annual income figures, on average. Workers who do find agricultural employment, are faced with a higher cost of living, driven up by the higher incomes in the area. An economic imbalance occurs which brings problems such as housing overcrowding, to survive cost of living differentials.

All of these humanitarian elements are very important incorporated into the Environmental Impact Report--as at the end of the project, it is the impact upon people which is really the priority and should be first and foremost on the list of considerations.

Thank you for your consideration of the aforementioned important perspectives to consider for the Southeast Quadrant Environmental Impact Report AND the humanitarian impacts of all involved in and surrounding the SEQ.

Julie Borina Driscoll, Trustee and FLP General Partner
Borina Trust and Borina Enterprises, LP



STATE OF CALIFORNIA—CALIFORNIA STATE TRANSPORTATION AGENCY

EDMUND G. BROWN Jr., Governor

DEPARTMENT OF TRANSPORTATION

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FAX (510) 286-5559
TTY 771



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February 5, 2014

SCL000218
SCL/GEN/VAR
SCH# 2010102010

Ms. Rebecca Tolentino
Planning Division
City of Morgan Hill
17575 Peak Avenue
Morgan Hill, CA 95037

Dear Ms. Tolentino:

Citywide Agricultural Preservation Program and Southeast Quadrant Land Use Plan – Draft Environmental Impact Report (DEIR)

Thank you for continuing to include the California Department of Transportation (Caltrans) in the environmental review process for the project referenced above. To follow up on the comment letter we submitted on Monday, February 3, 2014, we have the additional comment to offer.

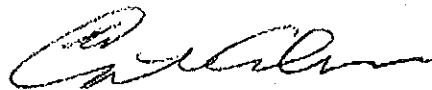
Traffic Forecasting

Appendix H Transportation Impact Analysis (TIA), Turning Traffic Diagrams (see, pages 1 and 29): Table 9 demonstrates AM (PM) generated trip as 2,189 (2,654) vehicles per hour (vph), respectively, resulting from the proposed project. The proposed project consists of both the South County Catholic High School and the Southeast Quad (SEQ) Area. Figure 7 shows AM (PM) generated turning traffic assignment under High School Project Only Conditions. Figure 10 displays AM (PM) turning traffic under Year 2030 General Plan Plus High School Project Only Conditions. However, the TIA and the DEIR do not include AM (PM) generated turning traffic diagrams under: (1) SEQ Project Only Conditions; (2) High School Plus SEQ Project Only Conditions; and (3) 2030 General Plan Plus High School Plus SEQ. Please provide these turning diagrams to Caltrans for review. Caltrans recommends these diagrams be included in the TIA and DEIR.

Ms. Rebecca Tolentino/City of Morgan Hill
February 5, 2014
Page 2

Should you have any questions regarding this letter, please contact Brian Brandert of my staff at (510) 286-5505 or brian.brandert@dot.ca.gov.

Sincerely,



ERIK ALM, AICP
District Branch Chief
Local Development - Intergovernmental Review

c: Scott Morgan, State Clearinghouse
Robert Swierk, Santa Clara Valley Transportation Authority (VTA) -- electronic copy
Robert Cunningham, Santa Clara Valley Transportation Authority (VTA) -- electronic copy

From: JULIE BORINA DRISCOLL [julieboridriscoll@sbcglobal.net]
Sent: Sunday, February 09, 2014 2:58 PM
To: Rebecca Tolentino
Cc: CustomerServiceOnline@pge.com;
senator.beall@outreach.senate.ca.gov; Steve Rymer; Leslie Little;
mike@mikewasserman.com; manager@mikewasserman.com;
richard.constantine@morganhill.ca.gov; Larry Carr; Steve Tate; Renee
Gurza; Dave Cortese(BOS); Ken Yeager; cindy.chavez@bos.co.santa-
clara.ca.us; joe.simitian@bos.co.santa-clara.ca.us; Carl Hilbrants;
steve.ross@pln.sccgov.org; fcilia@dsj.org; craig.farley@fire.ca.gov;
Robert Serventi
Subject: Re: Additional comments on Draft EIR/Environmental/Humanitarian
Impacts

Good afternoon, Ms. Tolentino,

Thank you very much for your e-mail response and your efforts in forwarding my previous comments to the appropriate environmental consultants.

Last week, I travelled to Sacramento, discussing additional thoughts as related below, with employees from the California State Department of Employment.

I am forwarding general ideas to Ms. Hilliard, Deputy Director of EDD, 800 Capitol Mall, Sacramento, California, in regard to OSHA considerations. (Thoughts are that with increasing traffic that the presence of agricultural operations and equipment on country roads, from a speed perspective, as well as a congestion perspective in that the country roads are NOT designed to handle the load or burden of traffic which has evolved, presents OSHA concerns. Add to this, other agencies, as well, which should provide their input--as if a workman's injury occurred, as an example--it would be the State Insurance which would be paying for any injury. This said, it is important the State is brought into this Agricultural Preservation Draft EIR review, as well as federal government, as they are the entities that would pay for what could be rooted in unsafe, hazardous conditions, given the changes that have occurred all around the Southeast Quadrant in Morgan Hill-- POINT BEING, THE ENTIRE AREA MAY NEED TO RISE UP TO THE OCCASION OF UPGRADES, SO ALL ARE CONSISTENT IN TRAFFIC SAFETY, TRAFFIC FLOW, LAND USAGES).

I am of the belief, that given the surrounding urban-like growth around the Southeast Quadrant, where there is comparably a low ratio of agricultural preservation, versus, what is in reality, closing in all around, with development, residential, business and retail, as well as higher priced homes, that this

brings in socio-economic and safety issue concerns that possibly needs to be examined by PGE, Cal-Trans, VTA and CAL-OSHA.

I am of the belief that there are additional vital perspectives to consider in this Draft EIR study for the Southeast Quadrant in order to be very thorough in the process of future land uses. The following are surfaced for consideration, please.

Ideally, the professional opinions of Transportation Agencies, such as the VTA, Cal-Trans would be solicited insofar as the impact of traffic patterns, on country roads, not designed to handle the level of traffic that is ever-growing in the Southeast Quadrant. The increasing hazards this brings, on two-lane roads, when there is overcrowding and there are those who speed and pass along these roads, not designed to handle 50-60 mph traffic. Head-on collisions and other forms of danger to properties along the country roads cannot be emphasized as a safety concern.

This then brings us to CAL-OSHA. In the event of farm worker injuries in an environment where the country roads are asked to handle urban levels of traffic--if there are injuries, the State would be requested to pay for the time off and medical bills, via insurance. CAL-OSHA opinion on the safety elements of agriculture in the Southeast Quadrant in 2014, with traffic patterns increasing, on narrow country roads, ideally would be requested in this Environmental Study and Impact report. Perhaps, this would be a combined study between CAL-OSHA, VTA, Cal-Trans and other applicable traffic safety government departments.

Increased traffic in an agricultural environment, on very narrow roads is hazardous. I will relate a true story related to myself by close relatives. (I was not involved nor near this scene in 1994, working in law office at the time). Near the Southeast Quadrant, a driver of a Honda Civic and his passenger, were travelling on a country road. Out of nowhere as it seemed, a tractor swung onto the roadway and confronted the Honda Civic from the opposite direction, head-on, with the tractor cultivator bars, about 6-8 feet in width, as related, swinging out (the tractor had the capability to fold the bars upward, but the driver of the tractor did not do this when turning at the edge of the field, onto the country road). The Honda Civic's driver, on reflex, swung to the right into a ditch--a maneuver which probably saved two lives, while the bars of the tractor bounced up on the hood, shattered the front dashboard window into smithereens and bounced its way up the Honda Civic's roof. The car was totalled. This happened during times of less traffic on the country roads--now, over the years, with increasing traffic--due to increase several fold in the Southeast Quadrant--question is does the City of Morgan Hill wish to expose the residents, the agricultural workers, property owners, in the Southeast Quadrant, with increasing traffic--to increasing danger? Country roads are

NOT designed to be urban roads NOR freeways, but these conditions are brought about when we have development all around us, bringing in increasing levels of traffic, which bring about freeway driving conditions--on narrow country roads NOT designed to handle either the increasing burden of traffic, NOR the speeds, while these are all intermingled with slow moving agricultural equipment.

Thank you very much for your consideration of the aforementioned, as I approach the Deputy Director of EDD on these issues, complete with pictures to prove--that we are really NOT agricultural in the SEQ.

We need land uses that are commensurate to what is around us on Dunne and Cochrane, as well as all around, to stabilize the economic disparities, cost of living equation, as outlined in previous e-mail.

Julie Borina Driscoll, Trustee and FLP General Partner
Borina Trust and Borina Enterprises, LP

DEPARTMENT OF TRANSPORTATION

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CITY OF MORGAN HILL



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February 3, 2014

SCL000218
SCL/GEN/VAR
SCH# 2010102010

Ms. Rebecca Tolentino
Planning Division
City of Morgan Hill
17575 Peak Avenue
Morgan Hill, CA 95037

Dear Ms. Tolentino:

Citywide Agricultural Preservation Program and Southeast Quadrant Land Use Plan – Draft Environmental Impact Report (DEIR)

Thank you for continuing to include the California Department of Transportation (Caltrans) in the environmental review process for the project referenced above. We have reviewed the DEIR and have the following comments to offer.

Traffic Impacts

One of Caltrans' ongoing responsibilities is to collaborate with local agencies to avoid, eliminate, or reduce to insignificance potential adverse impacts by local development on State highways. Caltrans' operating standard is any Level of Service below LOS D for State facilities are experiencing significant delay and unstable or forced traffic flow conditions (LOS E or F).

1. This proposed project would contribute to deficient intersection operations under Existing Plus Southeast Quadrant (SEQ) Area Project Conditions at Tennant Avenue between Condit Road and Murphy Avenue with mitigation measures would operate at LOS F in the AM and PM peak hours. Existing Plus High School Project Conditions at Tennant Avenue between Condit Road and Murphy Avenue with mitigation measures would operate at LOS F in the AM peak hour. The U.S. Highway 101 (U.S. 101) northbound and southbound on and off ramps feed directly into this portion of Tennant Avenue and would adversely and directly impact the State facility by causing backup onto the U.S. 101 northbound off ramp and mainline and backup the U.S. 101 northbound on ramp.
2. Tennant Avenue is the major roadway that connects the SEQ Area to U.S. 101. This proposed project would contribute to deficient highway segment operations under Existing Plus Southeast Quadrant (SEQ) Area Project Conditions at Tennant Avenue between Condit Road and Murphy Avenue would operate at LOS F in the AM and PM peak hours. The highway segments of the U.S. 101 northbound mixed lane between Tennant Avenue and Dunne Avenue during the AM

peak hour currently operates at LOS F. The addition of project trips from the SEQ Area project would degrade operations on the Tennant Avenue segment between Condit Road and Murphy Avenue during both peak hours.

3. Please include freeway ramp analyses for U.S. 101/Duanne Avenue and U.S. 101/Tennant Avenue Interchanges in the Traffic Impact Analysis (TIA).
4. Table 3.13-13 2030 Cumulative Existing Plus Project, Intersection #9 gives a LOS D with high Traffic Volume, while Table 3.13-10 Existing Plus SEQ Area, Intersection #9 with lower Traffic Volume gives a LOS F during both peak periods. Also, for Intersection #15, Table 3.13-13 gives a LOS C, while Table 3.13-10 shows LOS D during PM peak period. The Cumulative Existing Plus Project scenario, as the higher Traffic Volume indicates, is more critical than Existing Plus Project; however, the LOS is lower. Please explain the discrepancy how a higher Traffic Volume is followed by a lower LOS for cumulative impacts?
5. Caltrans is planning to activate the ramp meters along U.S. 101 in Morgan Hill in 2015 or 2016. The proposed project is likely to have impacts on the operations of the following freeway on-ramps during metering hours:
 - Northbound U.S. 101 Tennant Avenue diagonal on-ramp
 - Northbound U.S. 101 Dunne Avenue diagonal on-ramp
 - Southbound U.S. 101 Tennant Avenue diagonal on-ramp

During the ramp metering hours, the existing on-ramp queues will likely be lengthened with the additional traffic demand by this project. Additional storage on the on-ramps for the freeway on-ramp traffic and High Occupancy Vehicle (HOV) preferential lane at these on-ramps should be considered as mitigation.

6. The aerial photographs appear to be outdated, as the freeway interchange configuration does not depict the current "as-built" configuration.

Lead Agency

As the lead agency, the City of Morgan Hill (City) is responsible for all project mitigation, including any needed improvements to State highways. The project's fair share contribution, financing, scheduling, implementation responsibilities and lead agency monitoring should be fully discussed for all proposed mitigation measures.

This information should also be presented in the Mitigation Monitoring and Reporting Plan of the environmental document. Required roadway improvements should be completed prior to issuance of the Certificate of Occupancy. Since an encroachment permit is required for work in the State ROW, and Caltrans will not issue a permit until our concerns are adequately addressed, we strongly recommend that the City work with both the applicant and Caltrans to ensure that our concerns are resolved during the environmental process, and in any case prior to submittal of an encroachment permit application. Further comments will be provided during the encroachment permit process; see the end of this letter for more information regarding encroachment permits.

Transportation Management Plan (TMP)

If it is determined that traffic restrictions and detours are needed on or affecting State highways, a TMP or construction TIS may be required of the developer for approval by Caltrans prior to construction. Traffic Management Plans must be prepared in accordance with Caltrans' *Manual on Uniform Traffic Control Devices*. Further information is available for download at the following web address: <http://www.dot.ca.gov/hq/traffops/signtech/mutcdsupp/pdf/camutcd2012/Part6.pdf>.

Please ensure that such plans are also prepared in accordance with the transportation management plan requirements of the corresponding jurisdictions. For further TMP assistance, please contact the Office of Traffic Management Plans at (510) 286-4647.

Vehicle Trip Reduction

Caltrans encourages you to locate any needed housing, jobs and neighborhood services near major mass transit centers, with connecting streets configured to facilitate walking and biking, as a means of promoting mass transit use and reducing regional vehicle miles traveled and traffic impacts on the State highways.

Cultural Resources

Caltrans requires that a project's environmental document include documentation of a current archaeological record search from the Northwest Information Center of the California Historical Resources Information System if construction activities are proposed within State ROW. Current record searches must be no more than five years old. Caltrans requires the records search, and if warranted, a cultural resource study by a qualified, professional archaeologist, and evidence of Native American consultation to ensure compliance with California Environmental Quality Act (CEQA), Section 5024.5 and 5097 of the California Public Resources Code, and Volume 2 of Caltrans' Standard Environmental Reference (<http://www.dot.ca.gov/ser/vol2/vol2.htm>).

These requirements, including applicable mitigation, must be fulfilled before an encroachment permit can be issued for project-related work in State ROW; these requirements also apply to National Environmental Policy Act (NEPA) documents when there is a federal action on a project. Work subject to these requirements includes, but is not limited to: lane widening, channelization, auxiliary lanes, and/or modification of existing features such as slopes, drainage features, curbs, sidewalks and driveways within or adjacent to State ROW.

Habitat Restoration and Management

Project level activities related to habitat restoration and management should be done in coordination with local and regional Habitat Conservation Plans and with Caltrans, where our programs share stewardship responsibilities for habitats, species and/or migration routes.

Traffic Impact Fees

Please identify traffic impact fees to be used for project mitigation. Development plans should require traffic impact fees based on projected traffic and/or based on associated cost estimates for public transportation facilities necessitated by development. Scheduling and costs associated with planned improvements on State ROW should be listed, in addition to identifying viable funding sources correlated to the pace of improvements for roadway improvements, if any.

Voluntary Contribution Program

U.S. 101 is critical to regional and interregional traffic in the San Francisco Bay region. It is vital to commuting, freight, and recreational traffic and is among the most congested regional freeway facilities. Given the scale and location of the proposed project, and the traffic generated will have a cumulative significant regional impact to the already congested State Highway System. For example, the DEIR states that the proposed High School project "would have a significant impact at the Tennant Avenue/US 101 Southbound Ramps, since it degrades acceptable operations to unacceptable operations," "primarily adds traffic to the southbound left-turn movement," and "affects the signal operations and consequently the operations of the southbound right-turn movement...."

Caltrans encourages the City to participate in Santa Clara Valley Transportation Authority's (VTA) voluntary contribution program and plan for the impact of future growth on the regional transportation system. Contributions would be used to help fund regional transportation programs that improve the transportation system to lessen future traffic congestion, improve mobility by reducing time delays, and maintain reliability on major roadways throughout the San Francisco Bay Area. Reducing delays on State facilities will not only benefit the region, but also reduce any queuing on local roadways caused by highway congestion.

Encroachment Permit

Please be advised that any work or traffic control that encroaches onto the State ROW requires an encroachment permit that is issued by Caltrans. To apply, a completed encroachment permit application, environmental documentation, and five (5) sets of plans clearly indicating State ROW must be submitted to: David Salladay, District Office Chief, Office of Permits, California Department of Transportation, District 4, P.O. Box 23660, Oakland, CA 94623-0660. Traffic-related mitigation measures should be incorporated into the construction plans prior to the encroachment permit process. See this website for more information:
<http://www.dot.ca.gov/hq/traffops/developserv/permits>.

Should you have any questions regarding this letter, please contact Brian Brandert of my staff at (510) 286-5505 or brian.brandert@dot.ca.gov.

Sincerely,



ERIK ALM, AICP
District Branch Chief
Local Development - Intergovernmental Review

- c: Scott Morgan, State Clearinghouse
Robert Swierk, Santa Clara Valley Transportation Authority (VTA) – electronic copy
Robert Cunningham, Santa Clara Valley Transportation Authority (VTA) – electronic copy



Edmund G. Brown Jr.
Governor

STATE OF CALIFORNIA
Governor's Office of Planning and Research
State Clearinghouse and Planning Unit



Ken Alex
Director

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CITY OF MORGAN HILL

February 4, 2014

Rebecca Tolentino
City of Morgan Hill
17575 Peak Avenue
Morgan Hill, CA 95037

Subject: Citywide Agricultural Lands Preservation Program and Southeast Quadrant Land Use Plan
SCH#: 2010102010

Dear Rebecca Tolentino:

The State Clearinghouse submitted the above named Draft EIR to selected state agencies for review. On the enclosed Document Details Report please note that the Clearinghouse has listed the state agencies that reviewed your document. The review period closed on February 3, 2014, and the comments from the responding agency (ies) is (are) enclosed. If this comment package is not in order, please notify the State Clearinghouse immediately. Please refer to the project's ten-digit State Clearinghouse number in future correspondence so that we may respond promptly.

Please note that Section 21104(c) of the California Public Resources Code states that:

"A responsible or other public agency shall only make substantive comments regarding those activities involved in a project which are within an area of expertise of the agency or which are required to be carried out or approved by the agency. Those comments shall be supported by specific documentation."

These comments are forwarded for use in preparing your final environmental document. Should you need more information or clarification of the enclosed comments, we recommend that you contact the commenting agency directly.

This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act. Please contact the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process.

Sincerely,

Scott Morgan
Director, State Clearinghouse

Enclosures

cc: Resources Agency

1400 TENTH STREET P.O. BOX 3044 SACRAMENTO, CALIFORNIA 95812-3044
TEL (916) 445-0613 FAX (916) 323-3018 www.opr.ca.gov

**Document Details Report
State Clearinghouse Data Base**

SCH#	2010102010		
Project Title	Citywide Agricultural Lands Preservation Program and Southeast Quadrant Land Use Plan		
Lead Agency	Morgan Hill, City of		
<hr/>			
Type	EIR Draft EIR		
Description	The proposed project consists of the following programmatic elements: (1) Adoption of a Citywide Agricultural Lands Preservation Program; (2) Boundary Adjustments of the City limits (i.e., annexation), urban service area, urban growth boundary and urban limit line; (3) establishment of Sports-Recreation-Leisure General Plan and Zoning Code Designations; (4) City General Plan Amendments and Zoning Amendments to amend the land use designations and prezone lands within the Southeast Quadrant area, and adopt text amendments to the General Plan and Zoning Ordinance for project consistency; (5) Project application (Four projects are evaluated at a programmatic level of detail); and (6) the following project element: South County Catholic High School (1,600 student private high school on 38 acres).		
<hr/>			
Lead Agency Contact			
Name	Rebecca Tolentino		
Agency	City of Morgan Hill		
Phone	408-778-6480	Fax	
email			
Address	17575 Peak Avenue		
City	Morgan Hill	State	CA Zip 95037
<hr/>			
Project Location			
County	Santa Clara		
City	Morgan Hill		
Region			
Lat / Long	37° 7' 0" N / 121° 37' 0" W		
Cross Streets	Tennant Ave/ Murphy Avenue		
Parcel No.	817-17-001, -025, -026		
Township	9S	Range	3E Section 25/26 Base MDB&M
<hr/>			
Proximity to:			
Highways	Hwy 101		
Airports	South County		
Railways	UPRR		
Waterways	Madrone Channel, Tennant Ck		
Schools	Morgan Hill Unified		
Land Use	PLU: Rural Residential & Agricultural Z: A-20 GP: Agriculture Medium Scale		
<hr/>			
Project Issues	Agricultural Land; Air Quality; Archaeologic-Historic; Biological Resources; Cumulative Effects; Drainage/Absorption; Flood Plain/Flooding; Forest Land/Fire Hazard; Geologic/Seismic; Growth Inducing; Landuse; Noise; Other Issues; Population/Housing Balance; Public Services; Recreation/Parks; Schools/Universities; Septic System; Sewer Capacity; Soil Erosion/Compaction/Grading; Solid Waste; Toxic/Hazardous; Traffic/Circulation; Vegetation; Water Quality; Water Supply; Wetland/Riparian; Aesthetic/Visual; Minerals		
<hr/>			
Reviewing Agencies	Resources Agency; Department of Conservation; Department of Fish and Wildlife, Region 3; Department of Parks and Recreation; Department of Water Resources; Caltrans, Division of Aeronautics; California Highway Patrol; Caltrans, District 4; Air Resources Board; Regional Water Quality Control Board, Region 2; Native American Heritage Commission		

Document Details Report
State Clearinghouse Data Base

<i>Date Received</i>	12/20/2013	<i>Start of Review</i>	12/20/2013	<i>End of Review</i>	02/03/2014
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STATE OF CALIFORNIA—CALIFORNIA STATE TRANSPORTATION AGENCY

EDMUND G. BROWN Jr. Governor

DEPARTMENT OF TRANSPORTATION

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February 3, 2014

FEB 03 2014

STATE CLEARING HOUSE

SCL000218
SCL/GEN/VAR
SCH# 2010102010

Ms. Rebecca Tolentino
Planning Division
City of Morgan Hill
17575 Peak Avenue
Morgan Hill, CA 95037

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Ms. Rebecca Tolentino/City of Morgan Hill

February 3, 2014

Page 2

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Ms. Rebecca Tolentino/City of Morgan Hill

February 3, 2014

Page 3

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These requirements, including applicable mitigation, must be fulfilled before an encroachment permit can be issued for project-related work in State ROW; these requirements also apply to National Environmental Policy Act (NEPA) documents when there is a federal action on a project. Work subject to these requirements includes, but is not limited to: lane widening, channelization, auxiliary lanes, and/or modification of existing features such as slopes, drainage features, curbs, sidewalks and driveways within or adjacent to State ROW.

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Ms. Rebecca Tolentino/City of Morgan Hill

February 3, 2014

Page 4

Voluntary Contribution Program

U.S. 101 is critical to regional and interregional traffic in the San Francisco Bay region. It is vital to commuting, freight, and recreational traffic and is among the most congested regional freeway facilities. Given the scale and location of the proposed project, and the traffic generated will have a cumulative significant regional impact to the already congested State Highway System. For example, the DEIR states that the proposed High School project "would have a significant impact at the Tennant Avenue/US 101 Southbound Ramps, since it degrades acceptable operations to unacceptable operations," "primarily adds traffic to the southbound left-turn movement," and "affects the signal operations and consequently the operations of the southbound right-turn movement...."

Caltrans encourages the City to participate in Santa Clara Valley Transportation Authority's (VTA) voluntary contribution program and plan for the impact of future growth on the regional transportation system. Contributions would be used to help fund regional transportation programs that improve the transportation system to lessen future traffic congestion, improve mobility by reducing time delays, and maintain reliability on major roadways throughout the San Francisco Bay Area. Reducing delays on State facilities will not only benefit the region, but also reduce any queuing on local roadways caused by highway congestion.

Encroachment Permit

Please be advised that any work or traffic control that encroaches onto the State ROW requires an encroachment permit that is issued by Caltrans. To apply, a completed encroachment permit application, environmental documentation, and five (5) sets of plans clearly indicating State ROW must be submitted to: David Salladay, District Office Chief, Office of Permits, California Department of Transportation, District 4, P.O. Box 23660, Oakland, CA 94623-0660. Traffic-related mitigation measures should be incorporated into the construction plans prior to the encroachment permit process. See this website for more information:
<http://www.dot.ca.gov/hq/traffops/developserv/permits>.

Should you have any questions regarding this letter, please contact Brian Brandert of my staff at (510) 286-5505 or brian.brandert@dot.ca.gov.

Sincerely,



ERIK ALM, AICP
District Branch Chief
Local Development - Intergovernmental Review

c: Scott Morgan, State Clearinghouse
Robert Swierk, Santa Clara Valley Transportation Authority (VTA) – electronic copy
Robert Cunningham, Santa Clara Valley Transportation Authority (VTA) – electronic copy



Edmund G. Brown Jr.
Governor

STATE OF CALIFORNIA
Governor's Office of Planning and Research
State Clearinghouse and Planning Unit



Ken Alex
Director

DEVELOPMENT
SERVICES

FEB 11 2014

CITY OF MORGAN HILL

February 6, 2014

Rebecca Tolentino
City of Morgan Hill
17575 Peak Avenue
Morgan Hill, CA 95037

Subject: Citywide Agricultural Lands Preservation Program and Southeast Quadrant Land Use Plan
SCH#: 2010102010

Dear Rebecca Tolentino:

The enclosed comment (s) on your Draft EIR was (were) received by the State Clearinghouse after the end of the state review period, which closed on February 3, 2014. We are forwarding these comments to you because they provide information or raise issues that should be addressed in your final environmental document.

The California Environmental Quality Act does not require Lead Agencies to respond to late comments. However, we encourage you to incorporate these additional comments into your final environmental document and to consider them prior to taking final action on the proposed project.

Please contact the State Clearinghouse at (916) 445-0613 if you have any questions concerning the environmental review process. If you have a question regarding the above-named project, please refer to the ten-digit State Clearinghouse number (2010102010) when contacting this office.

Sincerely,

Scott Morgan
Director, State Clearinghouse

Enclosures
cc: Resources Agency

STATE OF CALIFORNIA—CALIFORNIA STATE TRANSPORTATION AGENCY

EDMUND G. BROWN Jr., Governor

DEPARTMENT OF TRANSPORTATION

111 GRAND AVENUE
OAKLAND, CA 94612
PHONE (510) 286-6053
FAX (510) 286-5559
TTY 771



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February 5, 2014

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FEB 05 2014

SCL000218
SCL/GEN/VAR
SCH# 2010102010

Ms. Rebecca Tolentino
Planning Division
City of Morgan Hill
17575 Peak Avenue
Morgan Hill, CA 95037

STATE CLEARING HOUSE

Dear Ms. Tolentino:

Citywide Agricultural Preservation Program and Southeast Quadrant Land Use Plan – Draft Environmental Impact Report (DEIR)

Thank you for continuing to include the California Department of Transportation (Caltrans) in the environmental review process for the project referenced above. To follow up on the comment letter we submitted on Monday, February 3, 2014, we have the additional comment to offer.

Traffic Forecasting

Appendix H Transportation Impact Analysis (TIA), Turning Traffic Diagrams (see, pages 1 and 29): Table 9 demonstrates AM (PM) generated trip as 2,189 (2,654) vehicles per hour (vph), respectively, resulting from the proposed project. The proposed project consists of both the South County Catholic High School and the Southeast Quad (SEQ) Area. Figure 7 shows AM (PM) generated turning traffic assignment under High School Project Only Conditions. Figure 10 displays AM (PM) turning traffic under Year 2030 General Plan Plus High School Project Only Conditions. However, the TIA and the DEIR do not include AM (PM) generated turning traffic diagrams under: (1) SEQ Project Only Conditions; (2) High School Plus SEQ Project Only Conditions; and (3) 2030 General Plan Plus High School Plus SEQ. Please provide these turning diagrams to Caltrans for review. Caltrans recommends these diagrams be included in the TIA and DEIR.

Ms. Rebecca Tolentino/City of Morgan Hill
February 5, 2014
Page 2

Should you have any questions regarding this letter, please contact Brian Brandert of my staff at (510) 286-5505 or brian.brandert@dot.ca.gov.

Sincerely,



ERIK ALM, AICP
District Branch Chief
Local Development - Intergovernmental Review

c: Scott Morgan, State Clearinghouse
Robert Swierk, Santa Clara Valley Transportation Authority (VTA) – electronic copy
Robert Cunningham, Santa Clara Valley Transportation Authority (VTA) – electronic copy

From: Carol n Rich Neal [nealfamily1@hotmail.com]
Sent: Thursday, February 13, 2014 4:19 PM
To: Rebecca Tolentino
Subject: comments on SEQ Annexation

February 13, 2014

To: City Council of Morgan Hill
Board of LATCO
Rebecca Tolentino

From: Mrs. Carol Neal
15600 Foothill Ave.
Morgan Hill, Ca 95037
Phone 408-779-7133
nealfamily1@hotmail.com

Re: Southeast Quadrant Land Annexation and Uses

To whom it may concern,

1. Who am I?

I am a resident of the County of Santa Clara and have lived in our home on Foothill Ave for about 40 years. Our property is the proposed area to be annexed to the City of Morgan Hill. This property is the primary asset in our estate. It is very important to us how the proposed annexation will affect the value and environment of our neighborhood. The greatest asset of our property is the rural beauty of this valley.

There is an easement that runs in the back of my property that connects the property of John Fry's American Institute/golf course to the city. This property was formerly owned by Irvin Perch who developed the Flying Lady Golf Course and Restaurant. As Mr. Perch could not get county approval, he used his money, and power on the city of Morgan Hill and was annexed. I use this as an example of the money and special interest that rule what is done in my neighborhood. Currently, Fry's property is an eyesore with it's wall of trees destroying the view from the bottom and it's current plan to build a "castle" obstructing the view from the top.

As part of the "existing residential units" listed in the General Land Use Program, we cannot subdivide. We have NO say in the use of our property. As we are not in the city limits of Morgan Hill, we cannot vote for the policy makers, and we are little fish in the county of Santa Clara, we have limited influence. We are in effect, powerless. What will be the cost to us in migration fees, assessment fees, city taxes, property taxes, etc.?

2. My concerns or objections;

a. Location of proposed South County Catholic High School. There is no need to place the high school in this location. Today, the Daughters of Charity Health System wants to rezone it's current 24.5 acre plot that is currently in the city limits of Morgan Hill. As a Catholic organization why not deed the property for a school. Also, it is of note that Mr. George Chiala who is the biggest winner in the SEQ plan is an important member of the Catholic organization.

It is a concern of mine that the placement of the school in this area has become a stepping stone for the annexation.

b. Effect of a private high school on the Morgan Hill Unified School District.

Currently enrollment in this district is low and not growing with the population increase. As a former member of the school board, I saw the declining enrollment as a possibility and fought against the building of Sobrato High School. Live Oak is close to the proposed Catholic site. Live Oak did have an agricultural program. I am not opposed to private schools but I feel that placing the Catholic High School on the west side near Gilroy or San Jose would have less effect on the local school district.

c. Annexing this property would accelerate the growth of Morgan Hill and the rural atmosphere will be lost. Just talking to new members of the area, they love the rural area.

d. Currently the City of Morgan Hill has many large vacant areas that could hold all of the proposed recreational improvements. Why take on more land when they cannot improve the land south of Dunne Ave on Monterey Road. . How can the city say it wants to have a greenbelt but in continues to push eastward with Cochrane Plaza while many vacant units exist in the core city area?

e. How can you preserve agriculture when you remove the most productive area from cultivation and make it into businesses. How will this area look in the future? A small farmer has put in a successful strawberry farm at the corner of Murphy and Tennant. Now you want to make it a sports field. The proposed Sustainable Agriculture Education is nothing but a grab of the government to control private land. How will this be supported? They say they have a grant but most likely it will be passed on to the taxpayer in mitigation fees and taxes.

g. What will be the effect of the Fry golf course? What will be needed for the proposed PGA golf tournaments? How will this affect the area? What about traffic, roads, etc. The current road that the city is responsible for is not maintained and is a hazard.

h. How is the City of Morgan Hill going to pay for this? Also it is to be noted that one of the stakeholders in this development are the city employees who make a good salary in promoting and developing this program.

Frustrated and Powerless

Mrs. Carol Neal

From: JULIE BORINA DRISCOLL [julieboridriscoll@sbcglobal.net]
Sent: Saturday, February 15, 2014 12:50 PM
To: ken@kwilliamssfagent.com; Robert Varich; Emil Scalia
Cc: Rebecca Tolentino; Steve Tate; Mayor Chuck Reed Reed; Mike Wasserman; Dave Cortese(BOS); Ken Yeager; joe.simitian@bos.co.santa-clara.ca.us; cindy.chavez@bos.co.santa-clara.ca.us; san.frankisco@ic.fbi.gov; jRosen@da.sccgov.org; jBoyarsky@da.sccgov.org; Carl Hilbrants; Steve Rymer; steve.ross@pln.sccgov.org; Senator.Beall@senate.ca.gov; Jackie Speier; Larry Carr; CustomerServiceOnline@pge.com; Leslie Little; craig.farley@fire.ca.gov; Mayor Chuck Reed Reed; fcilia@dsj.org; Marilyn Librers
Subject: Fw: MH EIR Issues --Insurance Companies Should Have Comment Opportunity

February 15, 2014

Dear State Farm Agent, Ken, Allstate Agent, Robert, Farmer's Agent, Emil,

I have presented several perspectives for consideration to Rebecca Tolentino, Senior Planner, City of Morgan Hill, involving the SEQ. I have shared these thoughts as follows, to the State Level and working to share it with the federal level. The major issue that is surfaced is that agriculture as it was known in the sixties, is not only passe in 2014, but it becomes unlawful, as economically, property owners cannot comply to the level of expectation, set forth by the State and Federal governments--beginning with minimum wage, insurance, workman's comp. Add to this, the hazardous conditions that it brings--which bring in insurance companies, as ultimately, insurance companies are the ones that need to answer to claims. I share my thoughts as follows, while escalating the issue to the State and Federal levels. (Years of communicating to the City of MH that agriculture is passe, resurfaces with an insistence for agriculture passe--as if the words spoken are not considered--so let us bring in all perspectives, that are affected by agriculture passe, to make our points heard loud and clear).

I wish to present this additional comment to Rebecca Tolentino, Senior Planner, City of Morgan Hill, involved in the Southeast Quadrant Draft EIR, to forward to appropriate consultants for review, but wish to have the appropriate offices at major Insurance Companies, State Farm, Allstate and Farmer's, please be given opportunity to comment, as well. I have a right as a property owner, surrounded by this ever-growing perfect storm of unsafe outdated conditions to safeguard my family's business and property on Tennant and Hill, as well as a customer, of major insurance companies, to comment on what can

keep customer costs down with several properties insured. Separately, we have a moral obligation to use our intelligence to surface issues in order to promote a safer community. Very simple solution--we need to accept agricultural passe in the Southeast Quadrant as an endeavor of the fifties/sixties, when it was lucrative for long-term generational farmers/property owners to farm. This is NO longer the situation in the SEQ, as barren fields with weeds manifest passe. Leave the agricultural endeavors to where it continues to be lucrative/profitable, places like San Joaquin County (without drought conditions) where agriculture boasts a \$2Billion Plus a year industry bringing strong revenue to the County. (So strong, that it is projected that Stockton will be \$10M in the black in the forthcoming year, emerging from bankruptcy).

I share with you my overall comments on a Morgan Hill Draft EIR--that brings in hazardous conditions, with agricultural zoning, passe. The incident outlined from about 20 years ago is true--this happened when the traffic was still country road acceptable. Add to it, by 2014, increasing traffic in the Morgan Hill area, travelling, at times, freeway speeds on narrow country roads not designed to accommodate the level of traffic on Cochrane, Dunne offramps, or even, at times, freeway speeds--it is danger that insurance companies may be forced to address. THE REASON IS THAT PEOPLE ARE NOT WILLING TO TAKE 35 MPH TO TRAVEL ON THESE COUNTRY ROADS, SO ERRATIC DRIVING CAN HAPPEN. (SEE FOR YOURSELVES, ESPECIALLY AROUND 5PM, HOW THE LEVEL OF SAFETY ON TENNANT DETERIORATES ON WHAT IS KNOWN AS "RUSH HOUR" TRAFFIC--PEOPLE ARE NOT PATIENT).

This is the reason the following is being shared with you, as insurance agents, with the hope you will forward it on to the appropriate State Farm, Allstate and/or Farmer's Offices. As a customer/client of all three Insurance Companies, I would like to keep coverage high and costs to the trust and/or personal accounts, reasonable. When we take danger out of the country roads, now increasing, without upgrades, the client/customer coverage will stay reasonable. If there are agricultural related mishaps, as related below, especially, when people's lives are placed in danger--the cost of coverage will escalate to every insurance company that becomes victim of claims. Claims, that may be proactively prevented, when the danger equation is taken out by upgrading Tennant and Hill, to be commensurate to Dunne and Cochrane and by allowing a land use, that is sensible and lucrative for long-term property owners--Agriculture is not, from several perspectives, as it also brings in harm in 2014.

Separately, the private high school plans on Tennant and Murphy, seems to be progressing well. Heavy load--1600 students (not counting faculty, staff

administrative and other classifications involved in the operation of the school) will bring in another concentration of traffic from all directions, as will the PGA Tour Tournament, when it relocates to the American Institute of Mathematics Castle site on Foothill Avenue. This is progressive, positive progress--we just need to have roads to accomodate this progress.

INSURANCE AGENTS--IS IT NOT SAFE AND PROPER FOR THE ROAD (TENNANT) LEADING UP TO THIS AREA TO HAVE UPGRADES TO ACCOMMODATE THE INCREASING LEVEL OF TRAFFIC TO BE CONCENTRATED ON TENNANT AVENUE?

Respectfully, this high level of traffic on narrow country roads beckons for an upgrade, just like on Dunne and Cochrane, leading up to the American Institute of Mathematics Castle site to accommodate the progress in the area and place little carts towed by tractors, travelling 5-10 miles an hour on the road, out of harm's way. Freeway speeds on Tennant are no match, in 2014, for country vehicles nor agricultural equipment, that can only travel 5-10 miles an hour. Any CHP Officer can ascertain just how dangerous it is, on a freeway, when a vehicle travels much slower than the normal flow of traffic--the hazard and danger it causes on a freeway, to have this obstacle traffic. Accidents waiting to happen. Move this condition on narrow, country roads, where the sheer level of traffic, brings about passing, as an unsafe condition that with freeway speeds can bring along -- head-on collisions, along with the obvious, exceeding of 35mph, recommended for the area, the heavy traffic eroding the country road.

THE "PERFECT STORM" OF ACCIDENTS WAITING TO HAPPEN ON TENNANT, ON SEQ COUNTRY ROADS, NEEDS TO BE TAKEN OUT OF THE EQUATION, WITH APPROPRIATE UPGRADES, A-Z, TO ACCOMMODATE 2014 TRAFFIC, 1600 PLUS VEHICLES, ON TENNANT.

Thank you very much for your consideration of this matter, as safety to humans and property needs to be a priority in any Draft EIR process. Safety and proactive planning for enhancement of safety, is the foundation of every insurance business. Julie 2/15/2014

Julie Borina Driscoll, Trustee and FLP General Partner
Borina Trust and Borina Enterprises, LP

From: tk [tkfusion@icloud.com]
Sent: Saturday, February 15, 2014 10:38 PM
To: Rebecca Tolentino
Subject: Comments on SEQ Draft EIR
Attachments: Oakland-View-Ordinance.pdf; IMG_1075 3.jpeg; IMG_1084 4.jpeg;
IMG_1058 4.jpeg; IMG_1089 2.jpeg; IMG_3165.jpeg; IMG_3167.jpeg;
IMG_2606.jpeg

Hello, my name is Tom Haris. Myself, wife Grace, and children Tom & Rachel live at 2729 Mira Bella Circle in Morgan Hill. I work in San Jose as a Director of Equipment Engineering at HGST, a Western Digital Company. Both my children grew up in Morgan Hill attending Jackson Oaks Elementary, Britton Middle and Live Oak High School. We purchased our home in May 2000. The main feature that attracted us to this home was the expansive open views of hillsides, rangeland, old growth Oaks, and creeks. Also the abundant wildlife activity such as wild pig, turkey, owl, hawk, kites, vultures, raccoon, pheasant, coyote, deer, snakes, and wide variety of wild song birds are a great value to us.

This communication concerns the SEQ changes being considered by the city of Morgan Hill. While I support the land south of my home (APN 817-20-034, -038 -039) being zoned open space, I am concerned that changing the SEQ Land Use Plan would encourage future growth in the area and affect the visual character and quality of this land.

I am concerned that many of the proposed changes to the General Plan and Zoning Code would permit urban services to be extended outside the Urban Services Area. While I understand that this would enable future development of the Chiala Project, it also could make it easier for smaller parcels that are at least 5 acres to be developed with single-family homes. In effect, it makes it easier for the entire area to be more developed in a lot-by-lot, unorganized fashion. This concerns our family because our view and surrounding environment is valuable part of our lives.

The environment surrounding our home provides our family a unique and high quality connection to nature.

- Rolling foothills dotted with Oak Trees un-spoiled by development
- Changing colors and effects with the seasons
 - for example both flatlands and hill turning green in winter, then transitioning to golden brown in summer
- Growing and harvesting of wheat
- Open sky with ample stars for casual or telescope viewing (minimal light pollution)
- Tens of miles unobstructed views to the South
- Nearby oak tree and creek views
- Cross Valley unobstructed views to the West (including coastal mountain

skyline and sunsets)

-all of the above is an integral part of my home which provides solace and inspiration in my families' everyday lives.

-note these visual resources are a key integration of the main living areas of my home on 1st and 2nd Floors plus backyard

This environment & view was key in our decision to purchase the home in 2000. Specifically we had been looking for a place with a view and natural environment surrounding the home. We had become quite frustrated at that time since homes with such features were simply not available with the style of neighborhood suited to raise a family. When looking at the home we immediately were taken by the views and environment and promptly paid what I considered a premium price to acquire the home (with the knowledge that -034 was zoned OS, outside the urban growth boundary/urban service area and thus the visual resources would be preserved). Simply put this is a unique residence where the view and natural environment are unique and not common.

In my opinion, as someone who's lived here for 14 years, the Draft EIR does not disclose that future development would significantly degrade the visual character and quality of the site and its surroundings. In fact, the Draft EIR found that future development in this area would be a less-than-significant impact and proposed no mitigation measures.

I believe that the proposed changes will have significant impact and the City must incorporate feasible mitigation measures to reduce impacts on visual resources. Currently the Design Review Handbook is not sufficient because it doesn't regulate the size and placement of trees on property. A neighbor to the south could plant trees along their property and essentially block the visual resources.

I request that the City incorporate language into the General Plan or Zoning Code to protect views. Other jurisdictions like Oakland have adopted ordinances protecting views (see attached). Or the City can amend the Design Review Handbook to provide standards for landscaping and trees so that neighbors' views are protected.

In addition the City should incorporate specific language that the proposed changes will not degrade or diminish the existing OS zoning or development restrictions for APN 817-20-034 (i.e. minimum 5 acres lot size for single family home, distance offsets from lot lines and creeks etc...). Also add language that there is no degradation or expanded access to the Grant of Access Restriction of lots APN 817-20-034, -038 -039 which was adopted by the City in 2007 (which restricts access to 3 single family homes and did not change OS zoning of -034).

Thank you for the opportunity to comment on the Draft EIR. Some pictures of the view and lots in question are enclosed as well.

Pls confirm receipt of these comments

Tom Harris
2729 Mira Bella Circle
Morgan Hill, CA 95037
408-420-1386

From: mikemonroe170@gmail.com on behalf of Mike Monroe
[mike@peopleandplanetstore.com]
Sent: Monday, February 17, 2014 12:36 PM
To: Rebecca Tolentino
Subject: Comments on SEQ and Ag. Land Preservation

Dear Ms. Tolentino:

Thank you for the opportunity of providing input on the SEQ development and the proposed Agricultural Lands Preservation Program.

I respect the City's intention of trying to preserve some aspect of our agricultural heritage, but I do not think it is a realistic objective as small scale farming is no longer an economically viable endeavor. I wish this was not the case. I do not believe that any amount of planning can overcome the escalating value of undeveloped land within Morgan Hill's urban planning zone.

The issue for me is how do we value the conversion of prime farm land and translate that loss into some other open space benefit within Morgan Hill's sphere of influence. To allow for a compensation formula that does not directly apply to our community (for example - a purchase or easement in the Ag. Preserve south of Gilroy) is problematic for me.

Development plans, including the SEQ, are coming fast and furious in South County. I live in Gilroy and own a small business in Morgan Hill which gives me a perspective that predicts the eventual merging of suburban communities as is now the case in San Jose metro area. The economics are too strong and the population growth forecasts indicate a sharp escalation into the future. In addition, the large development projects like SEQ are very complex and almost impossible for the average resident to stay the course in terms of participating in the process.

I have a gloomy outlook for the rural nature of South County. Of course, the build out will not completely occur in my lifetime but I can see it coming. Driving home in the evening to Gilroy, there are number of parcels up for sale - 26 acres here and 78 acres there. Or touring in Morgan Hill, there is the Borello and Rancho Santa Clara de los Lagos projects. My biggest hope is that a mitigation formula can be established and applied both in Gilroy and Morgan Hill that supports that preservation of open space (not private open space) within each community. Prime farmland is irreplaceable and it is difficult to concede that economics will trump most preservation efforts.

I'm sure that the planning process will be carried out professionally and that developments will be thoughtful in their layouts. I still feel that we are somehow selling our soul. Please implement a formula that does not turn our community in So. California.

Thank you for your consideration.

Mike Monroe
8752 Lions Creek Drive
Gilroy, CA 95020



Feb 17, 2012

Rebecca Tolentino, Senior Planner
City of Morgan Hill

RE: Agricultural Lands Preservation Program, EIR Comments

Dear Rebecca,

In a letter sent to you dated January 30, 2014, it was stated that the Silicon Valley Land Conservancy (SVLC) would not be commenting on the EIR for the Agricultural Lands Preservation Program for the City of Morgan Hill. After reviewing the document more closely, it is clear that our input might be helpful on a number of issues.

First, there seems to be a significant discrepancy between the value of Agricultural Conservation Easements (ACE) and the mitigation fee being proposed. The policy clearly states a Morgan Hill SOI easement value of between \$30,000 to \$48,000 per acre and a Santa Clara County easement value of between \$9,000 and \$27,000 per acre for the costs to acquire an ACE.¹ Yet the policy anticipates an Agricultural Preservation In-Lieu Fee of approximately \$15,000. Since the policy clearly states a preference for preservation in the SEQ, there appears to be drastic under funding for ACE's in the SOI of Morgan Hill. An average of the range in the Morgan Hill SOI is \$39,000 leaving an average deficit of \$24,000 (\$39,000 - \$15,000) for each ACE. Even in the less expensive Santa Clara County mitigation area, there is a deficit of \$3,000 (\$18,000 - \$15,000).²

¹ p. 5

Preservation inside Morgan Hill SOI. With mitigation required to take place within the Morgan Hill SOI, the mitigation cost associated with acquiring an easement was estimated to be \$30,000 to \$48,000 per acre. For a residential subdivision development with an average density of 5 units per gross acre, this would represent an additional development cost of between \$6,000 and \$9,600 per acre or \$1,200 to \$1,920 per unit. For a nonresidential development with a floor-area-ratio of 0.3, this would represent an additional development cost of between \$2.30 and \$3.60 per building square foot.

Preservation in Santa Clara County. With mitigation allowed to occur anywhere in Santa Clara County, the mitigation cost associated with acquiring an easement was estimated to be \$9,000 to \$27,000 per acre. For a residential subdivision development with an average density of 5 units per gross acre, this would represent an additional development cost of between \$1,800 and \$5,400 per acre. For a nonresidential development with a floor-area-ratio of 0.3, this would represent an additional development cost of between \$0.70 and \$2.05 per building square foot.

² 4. Initially, the Agricultural Preservation In-Lieu Fee, including the Program Surcharge Fee, is anticipated to be approximately \$15,000 per acre (based upon the attached Nexus Study).

Even though there is an allowance for annual adjustments based on the CPI and other changes, establishing an Agricultural Preservation In-Lieu Fee that is, from the very start, insufficient seems to, at best, cause false data for the funders of the In-Lieu Fee and, at worst, dooming the program to failure from the beginning. Where is there a concrete provision to make up this very obvious funding deficit?³

Second, the ACE transaction costs are estimated at 2.0 percent for all properties. This can be a very inaccurate and possibly misleading figure based on the size of the particular ACE. There are certain fixed costs associated with an ACE, such as appraisals, legal fees, document preparation, title search, etc. These costs are approximately the same regardless of the size of the ACE. The 2.0 percent figure may or may not be accurate. As an example, if the fixed transaction costs are \$30,000 (about average) and the property is 500 acres, the cost/acre is \$60. If the property is 20 acres (typical in the SEQ) the cost is \$1,500/acre. In the first case, the costs would be considerably over funded and in the second case, under funded. It would be kind of like having one hand in an ice bucket and the other over an open fire. The average is a comfortable 85 degrees but you might lose both hands.

A better and more equitable calculation would be to estimate a range of fixed costs and apply the actual costs to each individual property. So instead of an In Lieu-Fee of \$15,000, it might be an In Lieu-Fee of \$13,500 plus a fixed cost of between \$25,000 and \$50,000 (example only). This would be a more accurate representation of fees.⁴ This is not meant as an endorsement of the \$15,000 In Lieu Fee as it is still inadequate.

Third, The Fee Update Procedure seems to be very unwieldy, unmanageable and inaccurate. ACE's that have been done by SVLC have clauses that say all fees incurred will be paid by the mitigant. Trying to "obtain program specific evidence" will result in either over payment or under payment. The policy should just state that the mitigant pays all costs, including, but not limited to, transaction costs, stewardship, fee program administration, and agricultural easement acquisitions costs. A process can be set up whereby the mitigant deposits funds (estimated amount based on current data) into an account that actual costs will be paid from and any balances returned to said mitigant. This should be a much easier process and completely fair to all involved.⁵

³ *The program will allow for annual adjustments to the fee based on an established index and changes in land values. The In-Lieu Fee should be based on the value of Agricultural Lands at the time of development and must be sufficient to ensure lands can be purchased to meet the City's adopted ratios.*

⁴ *4. Initially, the Agricultural Preservation In-Lieu Fee, including the Program Surcharge Fee, is anticipated to be approximately \$15,000 per acre (based upon the attached Nexus Study). The program will allow for annual adjustments to the fee based on an established index and changes in land values. The In-Lieu Fee should be based on the value of Agricultural Lands at the time of development and must be sufficient to ensure lands can be purchased to meet the City's adopted ratios.*

⁵ **Fee Update Procedure**

The agricultural mitigation fee estimates developed in this technical study provide estimates of the per acre cost of meeting the mitigation requirements 2013 dollar terms based on information available. Over time, inflation and market cycles will affect mitigation costs. In addition,

The SVLC commends Morgan Hill in its efforts to create a viable Agricultural Lands Preservation Program and hope that these comments will make for a more effective and streamlined policy.

Sincerely,

G. Craige Edgerton
Executive Director
Silicon Valley Land Conservancy
408-460-1102

program-specific evidence will be obtained concerning the costs of stewardship, fee program administration, and agricultural easement acquisitions. For these reasons, a fee updating process is important. Consistent with many other mitigation programs, a two-component updating process is suggested. This includes annual adjustment to the agricultural mitigation fee based on a measure of inflation, the Consumer Price Index (CPI) (the CPI is published monthly by the Bureau of Labor Statistics and is a measure of the average change over time in the prices paid by urban consumers for goods and services.) The CPI for the western region will be used to update both components of the agricultural mitigation fee every six months.⁵ Every three years, rather than automatically updating the agricultural mitigation fee based on the CPI, a more detailed review of the fee program will be conducted. The fee review will consider the actual costs incurred by the implementing entity and compare them to the current fee levels. If there is sufficient program data available, the mitigation fee will be updated based on the actual experience.

County of Santa Clara

Office of the County Executive

County Government Center, East Wing
70 West Hedding Street
San Jose, California 95110
(408) 299-5105



February 18, 2014

Rebecca Tolentino, Senior Planner
City of Morgan Hill
17575 Peak Avenue
Morgan Hill, CA 95037

Subject: Comments regarding Notice of Availability (NOA) for a Draft Environmental Impact Report (DEIR) for the **Citywide Agriculture Preservation Program and Southeast Quadrant Land Use Plan**

Dear Ms. Tolentino:

Please find enclosed comments from the County of Santa Clara regarding the Notice of Availability (NOA) for a Draft Environmental Impact Report for the Citywide Agriculture Preservation Program and Southeast Quadrant Land Use Plan. These include comments from Planning, Land Development Engineering, Parks and Recreation, Roads and Airports, and Environmental Health.

The attached comments include our significant concerns regarding the following:

- Project Description
- Project Components
- Aesthetics
- Agriculture
- Williamson Act Contracted Lands
- Air Quality/Greenhouse Gases
- Biology
- Cultural Resources
- Hydrology
- Land Use and County General Plan Consistency
- Noise
- Population and Housing
- Alternatives

- Cumulative Impacts
- Agricultural Land Preservation and Mitigation Program
- Impacts to County Parks and Trails
- Traffic Impacts for County-maintained Roads and Caltrans Connecting Ramps
- Impacts to Wastewater Treatment Plants and Compliance with State Regulations for Water Quality and Quantity.

If you have any questions regarding specific comments on the NOA, please contact the following:

Planning: Bill Shoe, (408) 299-5749; Rob Eastwood, (408) 299-5792, Sylvia Ornelas-Wise, (408) 299-5749, or Priya Cherukuru, (408) 299-5787

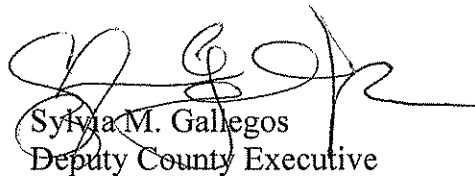
Land Development Engineering: Chris Freitas, (408) 299-5732

Parks and Recreation: Jane Mark at (408) 355-2237

Roads: Dawn Cameron, (408) 573-2465

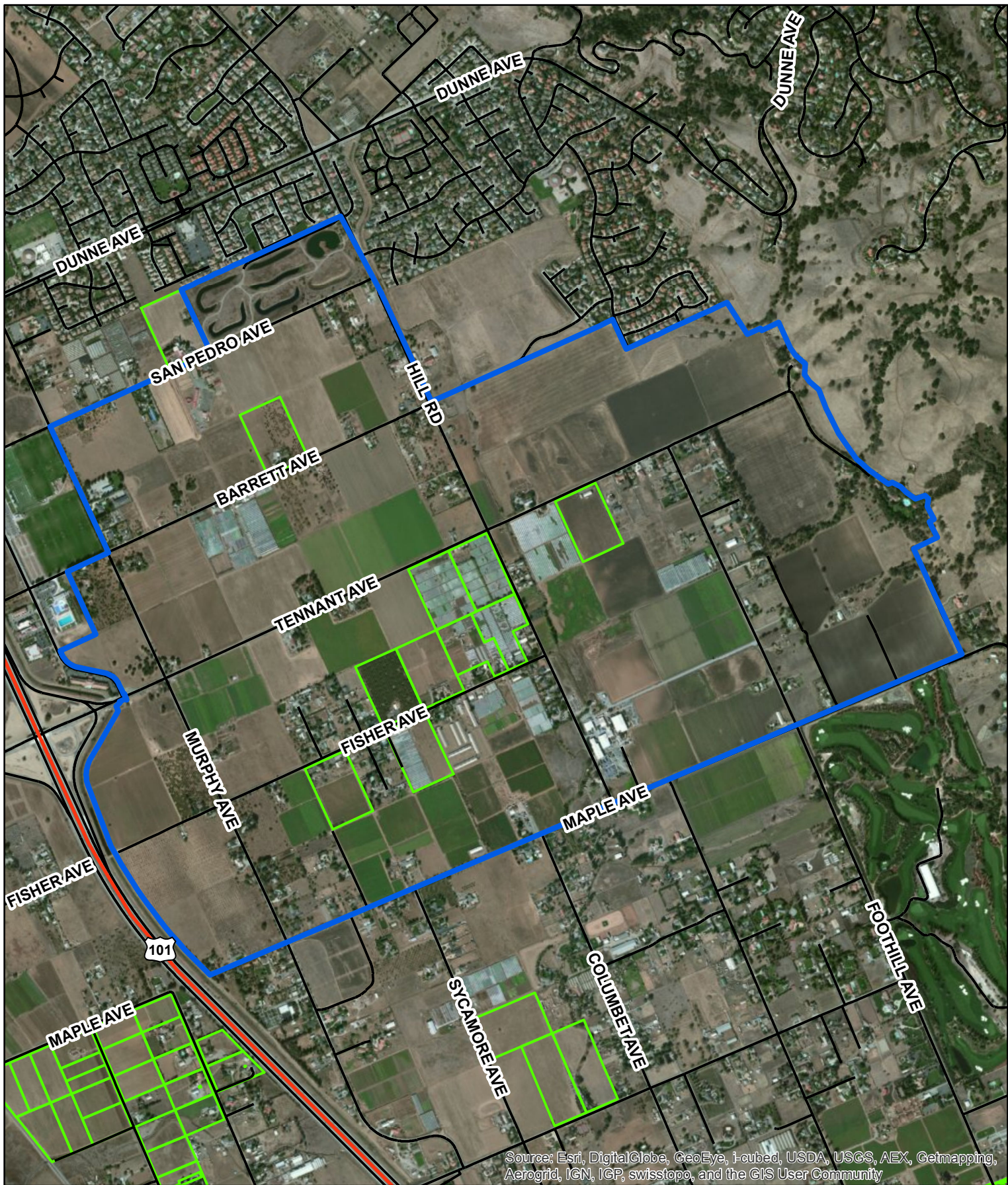
Environmental Health: Heather Forshey, (408) 918-1958

Sincerely,

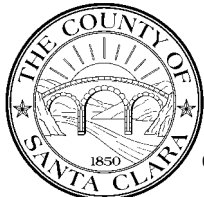


Sylvia M. Gallegos
Deputy County Executive

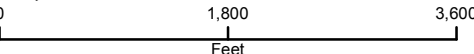
- c: Supervisor Mike Wasserman and Roland Velasco – *Board of Supervisors, District 1*
Ignacio Gonzales, Kirk Girard, Bill Shoe, Rob Eastwood, Priya Cherukuru, Sylvia Ornelas-Wise, Darrell Wong, and Chris Freitas – *Planning and Development Department*
Julie Mark and Jane Mark – *Parks and Recreation Department*
Dawn Cameron and Ivana Yeung – *Roads and Airports Department*
Heather Forshey – *Department of Environmental Health*



Source: Esri, DigitalGlobe, GeoEye, i-cubed, USDA, USGS, AEX, Getmapping, Aerogrid, IGN, IGP, swisstopo, and the GIS User Community





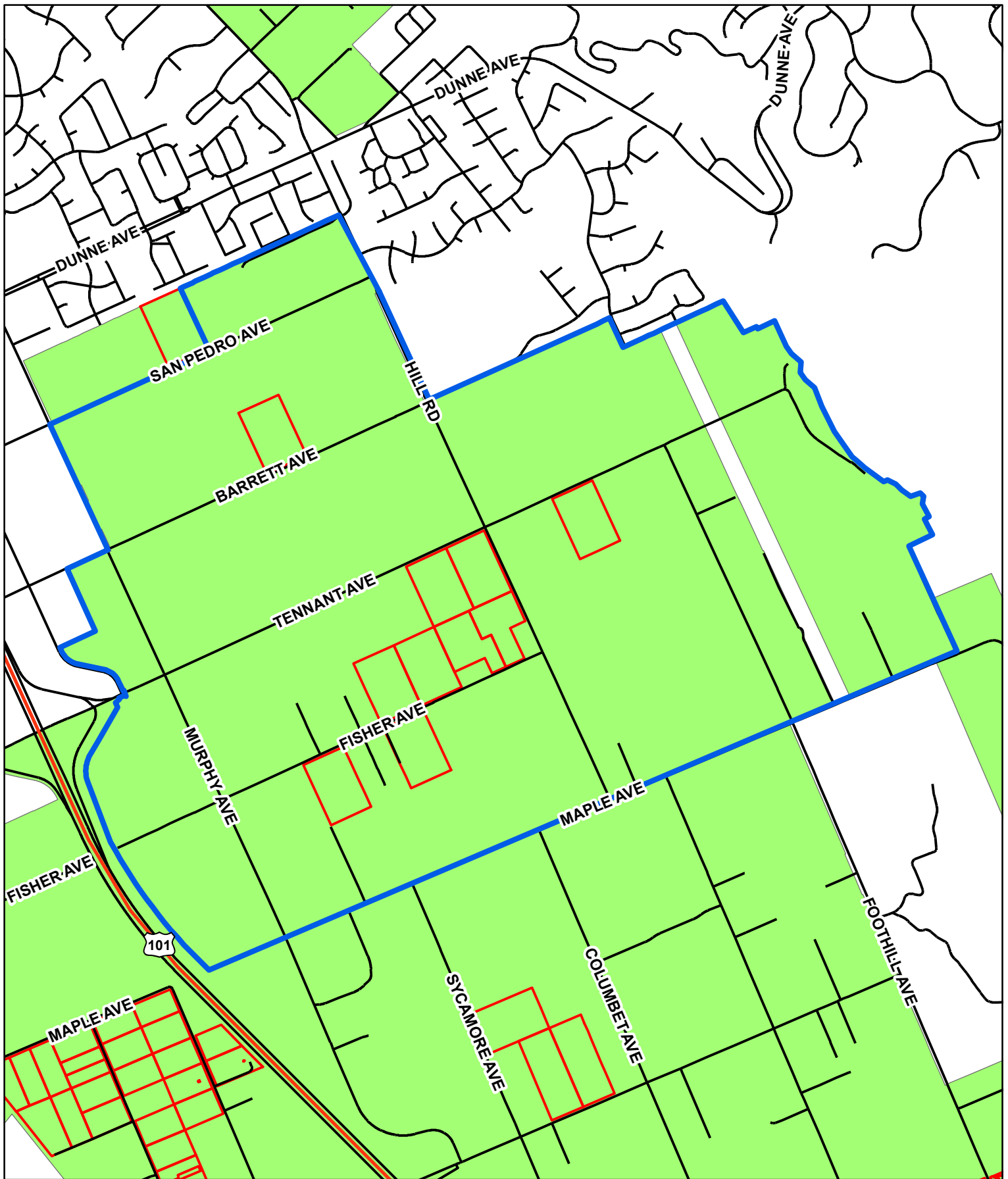
County of Santa Clara
Department of Planning and Development
Planning Office
County Government Center, East Wing
70 West Hedding Street, 7th Floor
San Jose California 95110-1705



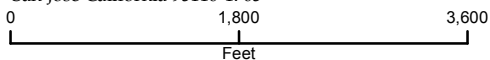
Air Photo

MAP by BAZ, TeamGIS, Feb 2014.

-  SE Quad Boundary
-  Williamson Act Parcels



County of Santa Clara
 Department of Planning and Development
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 70 West Hedding Street, 7th Floor
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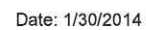


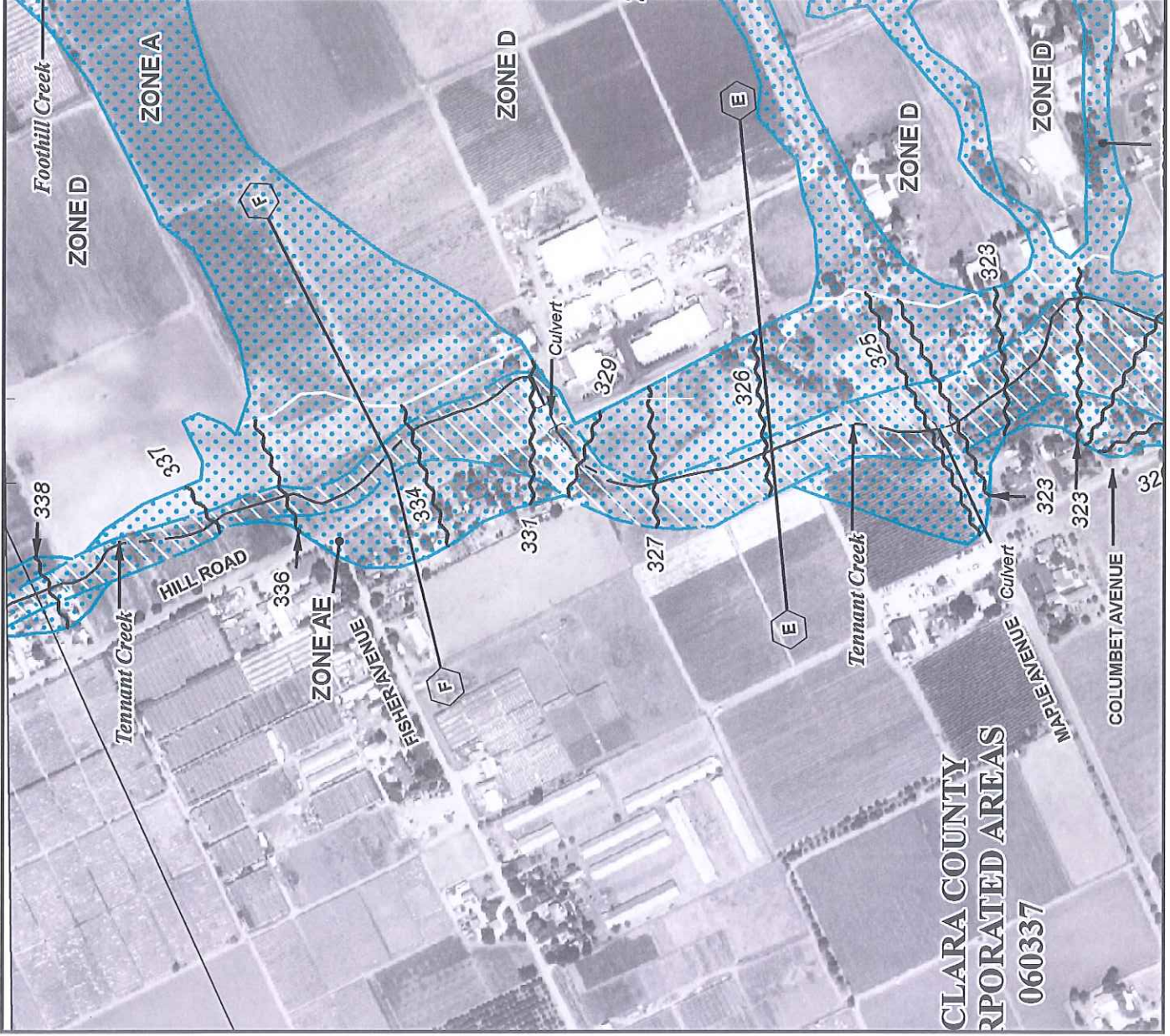
Agricultural Preserve

MAP by BAZ, TeamGIS, Feb 2014.

- SE Quad Boundary
- Williamson Act Parcels
- Ag Preserve adopted May 2, 2006







MAP SCALE 1" = 500'



NFIP

PANEL 0626H

NATIONAL FLOOD INSURANCE PROGRAM

FIRM

FLOOD INSURANCE RATE MAP
SANTA CLARA COUNTY,
CALIFORNIA
AND INCORPORATED AREAS

PANEL 626 OF 830

(SEE MAP INDEX FOR FIRM PANEL LAYOUT)

CONTAINS:

COMMUNITY	NUMBER	PANEL	SUFFIX
MORGAN HILL CITY OF	060346	0626	H
SANTA CLARA COUNTY	060337	0626	H

Notice to User: The Map Number shown below should be used when placing maps on orders. The Community Number shown above should be used on insurance applications for the subject community.

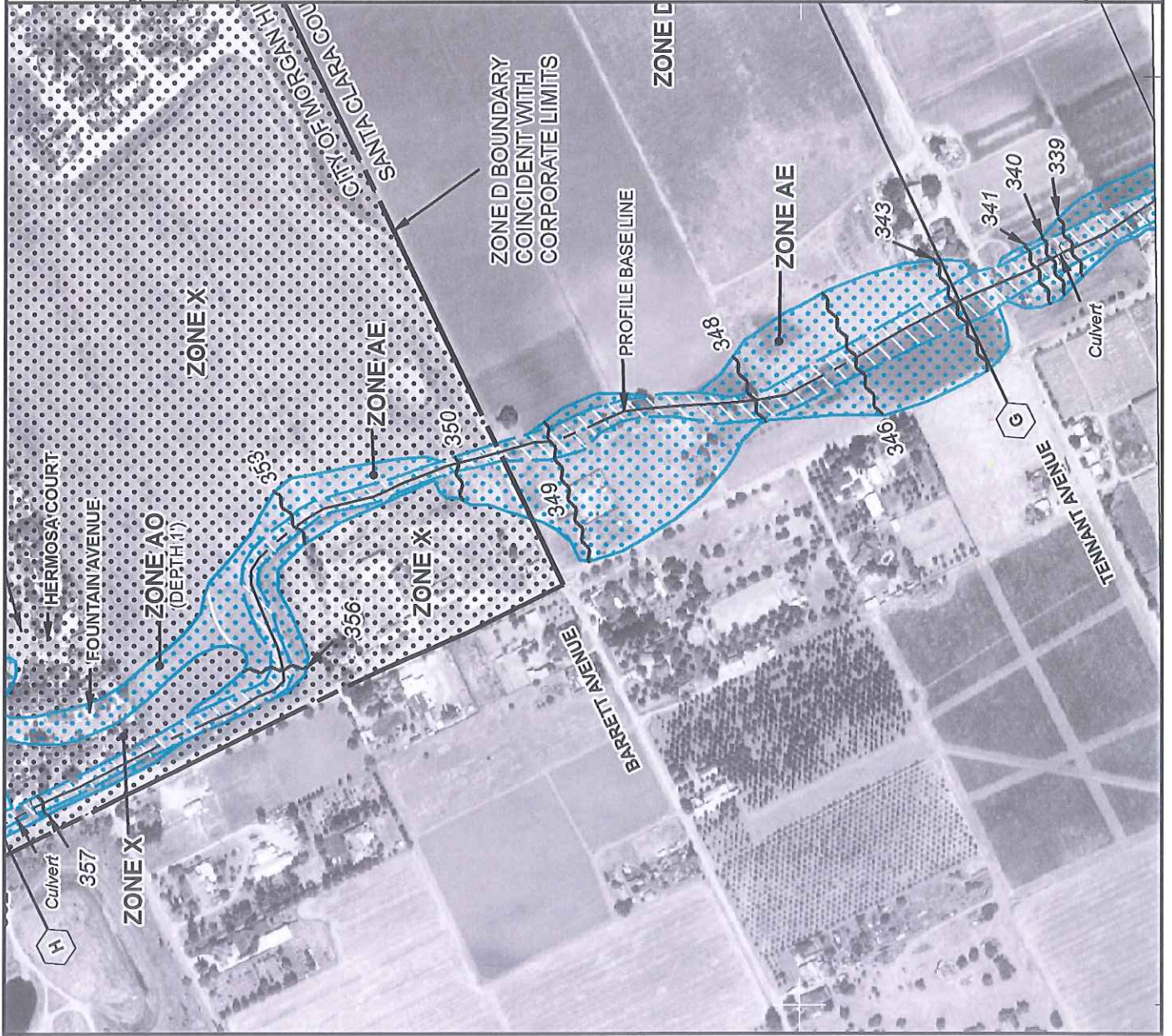


MAP NUMBER
06085C0626H

EFFECTIVE DATE
MAY 18, 2009

Federal Emergency Management Agency

This is an official copy of a portion of the above referenced flood map. It was extracted using F-MIT On-Line. This map does not reflect changes or amendments which may have been made subsequent to the date on the title block. For the latest product information about National Flood Insurance Program flood maps check the FEMA Flood Map Store at www.msc.fema.gov



MAP SCALE 1" = 500'



NFIP

PANEL 0463H

FIRM

FLOOD INSURANCE RATE MAP

SANTA CLARA COUNTY,
CALIFORNIA
AND INCORPORATED AREAS

PANEL 463 OF 830

(SEE MAP INDEX FOR FIRM PANEL LAYOUT)

CONTAINS:

COMMUNITY	NUMBER	PANEL	SUFFIX
MORGAN HILL CITY OF	000346	0463	H
SANTA CLARA COUNTY	000337	0463	H

Notice to User: The Map Number shown below should be used when placing map orders; the Community Number shown above should be used on insurance applications for the subject community.

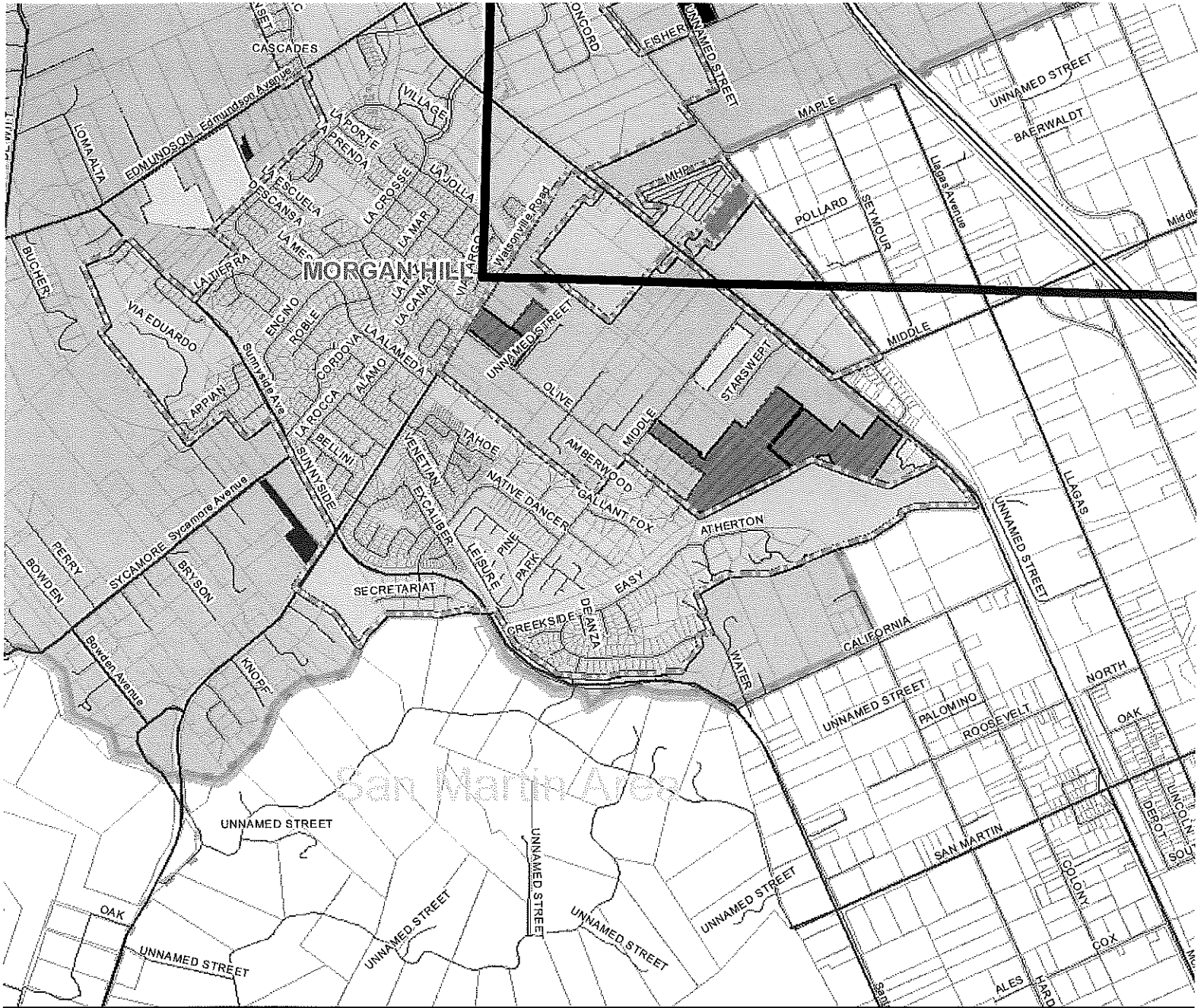


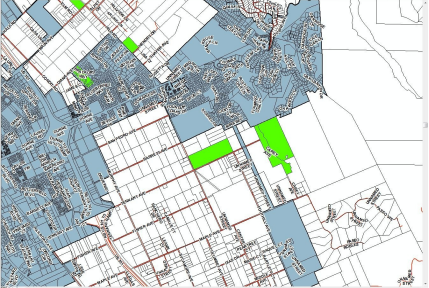
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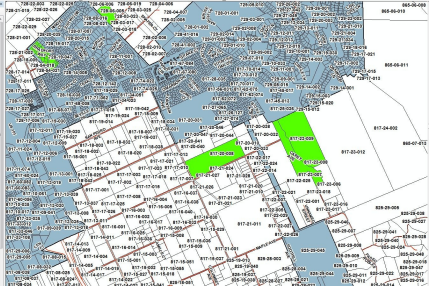
EFFECTIVE DATE
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February 12, 2014

Rebecca Tolentino, Senior Planner
City of Morgan Hill
17575 Peak Avenue
Morgan Hill, CA 95037

Subject: Re: Comments regarding Citywide Agriculture Preservation Program and
Southeast Quadrant Land Use Plan Draft Environmental Impact Report (DEIR)

Dear Ms. Tolentino:

This letter is written in response to the Notice of Availability of Environmental Impact Report for the Citywide Agriculture Preservation Program and Southeast Quadrant Land Use Plan Draft Environmental Impact Report (DEIR). Department of Planning and Development staff have reviewed the subject DEIR and have the following comments to offer. The comments are structured by subject matter of the document.

PLANNING

Executive Summary

ES-1, Overview:

The project description states that the project is a result of over 12 years of community conversation about the way the City of Morgan Hill should grow. A city or county's General

Plan is generally acknowledged to be the appropriate means for comprehensively addressing how the city should grow and develop, more so than an area plan, particularly for a small to medium sized city. The project is also focused on a particular mitigation program, and a portion of the city's SOI that has yet to be included in its Urban Growth Boundary. If the SEQ is as important a consideration for the city's future as stated, it should be considered as an integral part of the overall general plan update that is ongoing.

ES-2, 2nd ppgh:

DEIR makes reference to a "transferable development credits" mechanism to "clear" residential development rights from certain lands. This concept and mechanism, first broached in the ES, is lacking adequate explanation here and throughout the document. Is there an existing program or ordinance for this purpose? Would it have to be developed and adopted? Does the term "clear" mean that residential use potential is removed from an area to "clear" the way for other allowable uses or forms of urban development? Please provide additional explanation and a graphic.

ES-3, Component 5:

DEIR describes four future projects evaluated at program level. No reference is provided to what these are. It would be useful to name and provide appropriate reference to the projects later described more fully pp. 2-52 – 2-55.

ES-4, Project Objectives:

Number 4, to provide for clustering of existing development rights to achieve greater open space preservation, would appear related to the previous concept of transfer of development credits, but lacks adequate explanation.

Number 7, to annex a portion of the SEQ Area into the Morgan Hill city limits, is vague, with no reference to where in the document more information is obtainable about actual location.

Overall, the project objectives appear to be more like guiding principles or goals than definitive outcomes. The only definitive project objective appears to be the establishment of the high school, in comparison to other stated purposes.

ES-6, Alternatives:

Here and later in the document, the alternatives would benefit from maps or diagrams assisting public and decision-makers in understanding the extent of land area intended to be encompassed and the relative amounts and types of development intended on the lands so involved.

ES-8, Areas of Controversy

Potential conflicts with existing countywide growth management policies and principles, favoring incremental growth patterns and limited urban expansion that were raised during NOP process, are not included.

Also note potential conflicts with existing city and County land use policies that would require a major UGB modification proposal be undertaken in the context of and integrated with general plan update.

Project Description

Section 2, p. 2-1:

Component 5, the four projects referenced are later more fully described pp. 2-52 – 2-55. Otherwise, a reader is unfamiliar at this point with what these might possibly be.

Exhibit 2-2, Local Vicinity Map

As can be seen from the aerial imagery depicted on this map, for all the statements concerning of the failure or inadequacy of County policies and land use regulations to avoid certain undesired outcomes, the vast majority of the lands within the study area are still in open space.

p. 2-7, Boundaries and Land Use Designations:

The document states that Morgan Hill establishes the Urban Service Area. It would be more appropriate to indicate that under state law and countywide growth management policies, LAFCO adopts and thereby establishes all Urban Service Areas.

Ppgh. 3, The Urban Limit Line is referred to as defining the ultimate limits of city urbanization beyond the 20 year UGB time-frame. The document should include a city-wide map showing the current USA, UGB, and existing ULL in relation to each other, and clearly identify where the ULL includes lands of significance beyond or outside the UGB. Describe the purpose and utility of the ULL as a planning boundary over and above the USA and UGB, and how it would actually effectuate an enforceable “ultimate” or permanent limit of urban expansion.

p. 2-8, 3rd ppgh.:

DEIR states that “rural residential” development is allowed under the two main land use designations applicable to the area under the County’s General Plan, Agriculture and Hillsides. To avoid confusion with the County’s formally defined Rural Residential land use map designation that applies to a large area of San Martin to the south, the document should not use “rural residential” as the term by which it refers to the fact that a single family residence is an allowable use on existing legal parcels within all County rural land use designations applicable outside Urban Service Areas. It is sufficient to state that a primary dwelling is an allowed use. Images or connotations of “rural residential” development often imply land use patterns at higher densities than are prescribed in the Agriculture or Hillside designations. Historically, areas

having the Rural Residential designation were mostly subdivided at 2.5 acre densities per dwelling or less.

Exhibit 2-4, Existing Boundaries:

This map includes an unidentified red line. It appears to be consistent with the yellow line depicting the ULL as shown on Exhibit 2-10. If so, include in legend, and consider using same color or line symbology for each map.

Exhibit 2-6, Existing County General Plan Land Use Designations:

Four parcels outside the city's Urban Service Area in the upper northwest corner of the SEQ are not shown as having land use designations. They are designated Agriculture-Medium Scale.

p. 2-25, Existing Zoning Designations:

Zoning designations/districts for lands having the Agriculture-Medium Scale land use designation are A-20ac. (A, Exclusive Agriculture, -20ac. Lot size combining zoning district). The -20 zone provides for a 20,000 s.f. minimum lot size, compared to the -20ac. Zoning district.

p. 2-35, Section 2.3 Project Components

The first ppgh in this section introduces a fundamental rationale for the pursuit of the entire SEQ Plan that receives mention in various places in the DEIR. It states that "Without City planning activity, the SEQ Area would likely continue the trend of gradual cessation of agricultural and orchard uses, with "rural residential" homesites consisting of large homes on unincorporated lots of 8-10 acres or greater in area become the more prevalent development pattern."

It should be noted that under the current County General Plan designations and zoning, one primary dwelling and up to one limited secondary dwelling are allowable uses for each legal lot of record, provided that the property satisfies all applicable requirements for building site approval, a pre-requisite for issuance of a building permit. Most of the parcels in the SEQ are already developed (approximately 140 out of 200), but the vast majority of the land area remains in open space. Based on underlying lots created by ranch map subdivisions in the area, it appears there may be up to 40 additional legal parcels available for individual development, with an average lot size of over 8 acres. Most are 10 acres gross.

In the last 35 years, County records indicate that on average less than one site approval has been granted per year for the prospective development of a new single family home or a replacement home in the SEQ Area (25 from 1978 to 2012). Site approval is also required for additions over 500 square feet. Subdivision has been precluded under policies and densities in effect since 1980. The 10 acre ranch map lots that predominate the area are a result of named subdivisions dating to the early 1900s such as the Catherine Dunne Ranch Maps, which were recorded

primarily for purposes of farming leases and management of farm lands. Finally, while historical agricultural uses in the South County have seen declines in acreage cultivated over many years, and Morgan Hill's vicinity is not different in that respect, the possible "gradual cessation" of agriculture in the Morgan Hill SOI is not attributable solely to County policies and regulations. In fact, the County has partnered with cities such as Gilroy, San Jose, and Morgan Hill, as well as other governmental agencies and non-governmental organizations to promote and encourage sustainable agriculture in Santa Clara County, through a variety of programs, projects, policy studies and ordinances. The demand for local agricultural production is experiencing a resurgence around the country, and a growing body of research and literature suggests that long term local food system needs should be considered as an integral issue in the long range planning for the south county valley lands.

With a full reading of the projects envisioned as part of the DEIR, including a 40 acre high school, a reader could just as likely conclude that the city's project will have more of a direct effect on cessation of agricultural use potential and a greater amount of overall urban use and development than would be the case under the No Project alternative.

p. 2-36, Ag Lands Program:

1st ppgh refers to "lands...proposed to remain in agricultural use." The ppgh later explains that this area is referred to, mapped, and named as the Agricultural Priority Area. The first reference is unnecessarily vague and should simply refer to the designated priority area.

The Exhibit 2-9 depicting the priority areas on the facing page shows two generally distinct areas, one to the north of Tennant Avenue, connected to one generally south of Tennant by two roughly 10 acre parcels. Significant portions of the area are also included in the ULL, as shown in Exhibit 2-10. The ULL portends and would enable future urbanization, by definition, which would tend to undercut the feasibility of preserving agricultural lands inside the ULL.

p. 2-36, Section 2.3.2 – Boundary Adjustments

Under the description of the city limits, the city has proposed to expand the city limits by annexing over half the 1,300 acres in the SEQ. The traditionally defined meaning of the verb 'to adjust' is to change something in a minor way so as to make it better or improved. The annexations and USA/UGB modifications proposed would not appear to be minor.

Exhibit 2-10:

This map provides the reader with the first diagram depicting the location and extent of proposed boundary modifications/expansions. Although the DEIR analysis later concludes that all proposed boundaries are consistent with longstanding countywide growth management policies and principles, as well as LAFCO goals and policies that govern, it is appropriate to note the following at this juncture:

- Lands included in an USA or city limits are generally intended to provide for urban density development necessary to effectively and efficiently meet the population and economic growth needs of the cities;
- The outward expansion of USA and city limits should only be considered when necessary and appropriate to allow for urban development when infill, redevelopment, and higher density land use within existing boundaries do not provide sufficient growth potential;
- Boundary locations such as these do not meet the initial test of or definition of logical within the context of LAFCO policies and countywide growth management/urban development policies, which would show an UGB into which the USA might be expanded incrementally to properly manage a city's growth and service obligations.
- Areas most proximate to the city limits, existing urban subdivisions, and meeting a definition of logical expansion, north of Barrett Avenue, are excluded and skipped over.

p. 2-42, Table 2-3 (cont.):

Under Policy 20-b, a proposed policy text amendment introduces the concept of lands annexed to the city being precluded from future inclusion in the USA. Why would this be necessary or appropriate, given that the city has the prerogative, once lands are annexed, to plan for them, prescribe land uses and development, and extend urban services depending on the needs of the time?

p. 2-43, boundary definitions:

The term Urban Service Area is defined in state law and LAFCO Policies and Guidelines. A city's definition should accurately reflect those definitions.

p. 2-43 to 2-44:

The DEIR begins to discuss aspects of the Chiala Planned Development that are not more fully divulged or explained until p. 2-52. It describes a private water company being created to provide an urban service to the area without obligating the city to provide that same urban service. The need for such service appears to indicate that the area to be further described in the DEIR would require an urban level of service not met through individual private wells for purposes of residential or other development within the 454 acres proposed for annexation outside the USA. It then states the terms of the city's RDCS which logically and appropriately restrict extension of urban services beyond the USA, as a means of managing and controlling growth through infrastructure. Ultimately, the picture painted by this discussion of potential development outside the USA is one of urban uses or densities necessitating some level of urban services, under the guidance and planning of the city, which conflicts with accepted planning principles, countywide growth management policies, and LAFCO policies.

p. 2-45, SRL Designation:

The proposed SRL designation and zoning district remain vaguely defined, and lacking sufficient development details and specificity to know what actual development outcomes, buildings, and typical uses could occur on an existing parcel. For example, for a commercial use or intensive recreational use allowed, what population densities, floor area ratios, subdivision or minimum lot size standards are envisioned that typically accompany a land use designation or zoning district? How many stories or height limits would apply? What images or visual simulations might be offered to provide decision-makers and residents with a sufficient picture of what is being proposed through approval of the DEIR and its companion policy and ordinance amendments?

By what means would the city's policies and ordinances allow for SRL uses outside SRL zoning on the Chiala lands, if the SRL zone is a base zone that would not be proposed on those lands at this time?

p. 2-52, Programmatic Project Applications

On this page the DEIR begins to describe four site-specific land use and development proposals previously referred to in the introductory sections. Exhibit 2-12 depicts the locations of these four projects, and the proposed high school site.

For three of these developments, the description is limited to a few sentences or paragraph. For the Chiala Planned Development project, there is significantly more narrative description. For the amount of time these projects have been discussed or envisioned, there should be some more accurate and meaningful way of depicting possible uses and development, including detailed diagrams, visual simulations, and maps with possible alternative uses. The lack of definitiveness with which the DEIR describes these projects makes it difficult to analyze or assess them adequately even at a program level.

Detailed acreage figures are provided for the Chiala property for SRL uses, residential estate-sized lots, and agricultural uses. There would be polo and cricket fields, an equestrian facility of some size, which are typically large, a visitor's center, and so forth. However, no map or even hypothetical diagram or visual simulation of the arrangement and location of these uses is provided to the reader. Documents are known to exist which have been used to develop conceptual versions of a master planned development. Maps, diagrams, and visual simulations would greatly enhance the ability of the reader, public, and decision-makers to understand the projects and their potential impacts.

It should also be noted that the combination of an Open Space designation with a "Planned Development" designation is an unusual juxtaposition of two very diametrically opposed concepts of modern urban planning. One connotes the very absence of any significant development, while the latter is most often used by cities to plan for and facilitate highly dense, complex urban land use and development mixes, with a level of flexibility not otherwise afforded by standard zoning regulations and paradigms.

p. 2-56, 1st ppgh.:

The DEIR states the Chiala development proposal would propose to transfer development rights from an undefined portion of the properties involved to an undefined clustered residential location closer to the existing urbanized areas of the city. This statement introduces significant uncertainty relative the previous discussions of providing for water systems and residential estate development within those same lands. Furthermore, no meaningful discussion is provided within the DEIR for how the city's policies or ordinances would provide a mechanism for accomplishing such TDRs, if one does not exist presently. By applying a Planned Development designation and allowing certain densities on these lands, would it necessarily be the case that a transfer of development rights or credits occur?

If the TDR aspect is truly an integral component of the project, where would the clustered sites be generally located? If truly clustered, would those smaller, urban residential lots require full urban services such as municipal sewers, in contrast to the other residential use developments described as relying on on-site (septic) systems? How substantial would those areas be that would be for the "creation of larger open space/agricultural areas at the City's outer edges" as stated in this section?

p. 2-62, High School:

2nd ppgh., the narrative describes a setback or buffer along eastern and northern boundaries. No such features appear on the exhibits or site plans that precede this statement. Define what is meant by such terms and where on diagrams or exhibits they appear.

General Comments:

1) A fundamental foundation to any environmental analysis conducted in accordance with CEQA within an EIR is a clear understanding of the project. As previously acknowledged in the County's response to the Notice of Preparation issued in 2010, the "project" analyzed within the Southeast Quadrant EIR does not appear to be clearly defined. Specifically description of various components of the Southeast Quadrant range from specific to vague, with a confusing overlap between areas defined as "programs" versus "projects". While there are components of the Southeast Quadrant project that are more clearly defined, such as the proposed Catholic High School, other areas, such as the proposed future uses and components of the Sports Leisure areas and especially the proposed transfer and clustering of development "rights" to create rural, estate

residential lots within the eastern portion of the site ("Chiala Planned Development") is unclearly described. Specific questions regarding these components are –

- a. Why are certain components of Leisure only afforded programmatic analysis only within the EIR. It appears there are sufficient details on certain components within the Leisure / Recreation proposals to afford project level environmental analysis. For example, the Craiker proposal specifically describes 40,000 square feet of retail space and a 3,000 square foot restaurant. Previous presentations on the Southeast quadrant appear to show specific site plans for this proposal. For example, Slide 12 within the February 18, 2010 presentation on the South East Quadrant (on the Morgan Hill website) shows a specific site plan for this proposal. As this specific proposal has been shown in detail, and it is "reasonably foreseeable" that the project as shown in this site plan would be constructed if the Southeast Quadrant is approved, specific project level analysis of its potential environmental impacts are required at this time.
- b. The "Chiala Planned Development" is not defined well and not properly evaluated within the EIR. It is very difficult to understand from the project description exactly what is being proposed in this area. The EIR both describes this proposal as "Open Space" but at the same time states that 86 acres of sports-recreation-leisure uses are proposed, including visitor accommodations. This proposed general plan designation and intended use appear to be internally inconsistent. This "Planned Development" also describes 107 acres of residential estate lots. However, with respect to these proposals, there are no further details or maps showing where these uses would occur and how. The project description and EIR must show and evaluate what is reasonably foreseeable consequences of this idea. Where is the 86 acres of sports area? Where would the homes within the 107 acres of residential estate lots be located. Per CEQA, the intent of an EIR is to provide disclosure and inform decisionmakers of the potential environmental effects of proposed actions. There is inadequate disclosure and analysis within the EIR with respect to these proposed uses

2) There appear to be many instances in which the Southeast Quadrant "project" is internally inconsistent. One major program within the SEQ proposal is the Agricultural Mitigation and Preservation Program, which is intended preserve and conserve agricultural land and open space within the SEQ area. However, both explicitly and implicitly, the SEQ contains other proposed actions that would directly jeopardize this proposal –

The proposed "Agricultural Mitigation and Preservation Program" is described as a means to preserve agricultural lands within the SEQ area, specifically the "County Lands" portion of the area. However, the proposed SEQ project intends to extend the Urban Limit line to encompass this same areas. Both the declared intent and foreseeable consequences of these components are

diametrically opposed to each other. According to the Notice of Preparation published in 2010, the Urban Limit Line is defined as “The urban limit line separates urban and future urban areas from rural areas, thus defining the ultimate limits of City urbanization.” Per this definition, it is “reasonably foreseeable” that all areas within Morgan Hill’s urban limit line will be urbanized. Urbanization would entail the conversion of existing rural and agricultural uses to urban uses. Thus, how can the SEQ’s proposed Agricultural Mitigation Program succeed in preserving agricultural lands within an area designated for future urbanization? While proposal is both internally inconsistent, it also appears to jeopardize implementation of the Agricultural Mitigation measures (namely the preservation of agricultural lands at a 1:1 ratio for lands lost to urban development) proposed to address the significant agricultural impacts that would result from the project. As such, it appears that these mitigation measures are not legally adequate, as they are in direct conflict with the SEQ itself, which includes a declared intent to urbanize these areas.

Chiala Planned Development. This area is proposed to be designated as Open Space and includes proposed rural residential uses and recreational uses. The DEIR states that no urban services will be provided to this area and they will be served by individual septic systems and wells, remaining “rural”. In describing the aesthetic impacts of the SEQ project on page 3.1-15 of the DEIR, the DEIR states “Overall these types of urban land uses are compatible with and similar to existing surrounding land use activities.” This description of this proposal is internally inconsistent.

Aesthetics

The Aesthetics analysis within the DEIR does not adequately evaluate potential environmental impacts associated with future development within the “Chiala Planned Development” component in the eastern part of the project. Namely, the DEIR does not acknowledge or consider consistency between future development envisioned in this area (which could include residences, an equestrian center, accommodations, etc.) and the County’s design review district for this area. As correctly disclosed earlier within the DEIR, portions of this site, namely the eastern foothills area, are designated as –d1 (Santa Clara Valley Viewshed) under the County Zoning Ordinance, which recognizes the viewed qualities of the hillsides as seen from the Santa Clara Valley floor. How is the proposed future development in this area consistent with the County’s Viewshed protection policies and standards within this zone. As the County’s viewshed ordinance provides substantial evidence that these eastern foothills are an important viewshed resource, the DEIR at minimum must include analysis of the potential impacts of future development within this sensitive area.

p. 3.1-13, Scenic Vistas

Despite the potential for commercial uses in immediate proximity of the 101 freeway, the allusion to the need for special planning approvals for certain heights of buildings, and 55 foot

height limits for the high school, the DEIR concludes there is no significant impact to scenic views and no mitigation is required. Scenic resources other than the very distant El Toro and Diablo Mountains are not addressed. It would appear that a more convincing and likely conclusion is that some significant change to existing scenic views will result, with potentially significant impacts, but that with proper landscaping, placement, procedures, densities, and conditions, such as landscaping and tree plantings, the overall impact could be arguably less than significant.

p. 3.1-16, Visual Character

Without visual simulations of some kind for either the high school or more intensive development types described in the various SRL and other designations, including indoor sporting and recreation facilities, equestrian facilities that frequently involve 20-25,000 s.f. covered arenas, and so forth, the DEIR requires the reader to simply accept a verbal assessment and assurance of no potential visual impacts. The project descriptions and limited graphics provided do not provide a sufficient basis for the public or decision-makers to accept such assurances.

Agriculture

p. 3.2-17, Agricultural Impacts

The DEIR states that the SEQ component may convert up to 120 acres of farmland, and for the High School, approximately all of its 38 acres would "yield a significant impact." Is the reader to assume that each of these differently stated findings are equivalent significant impacts?

p. 3.2-21

The DEIR concludes that if the as yet to be adopted Agriculture Mitigation Program is successfully implemented, it will provide complete mitigation for any conversion or loss of agricultural land. Part of the program in Appendix K states that SRL uses in some cases would not equate with permanent conversion from agricultural land. The project also includes a majority of the priority preservation areas within the ULL for eventual urbanization.

It seems speculative at this point to assure decision-makers of the effectiveness of the as yet unadopted and untried program, however well detailed it appears to be. Cost estimates for preserving an acre of agricultural land may also prove to be too low. Given the combination of factors and use designations, unusual boundary modifications, and potential land use patterns, it is likely that the Agricultural Priority Areas in the north half of the SEQ will not be utilized or preserved in the long run for permanent agriculture and open space. Many of those property owners might consider their lands to be more logical candidates for urban area expansion presently than those further south and east. These lands nearer to Barrett and San Pedro avenues

will also be witness to gradual development of non-rural densities or uses on lands east and west of them, increasing development interest and property values. Once lands brought into the city's USA or city limits become developed for SRL or similar described uses, the value of those lands excluded from such use potential becomes greater in the long run to developers and the city's long-term residential/commercial land supply.

The DEIR concludes that the project would have the ultimate effect of deterring the creation of pressures to convert agricultural land outside the USA. (p. 3.2-24). On the contrary, premature commitments to urban planning boundary extensions have proven to have the opposite effect. Consider the case of the City of San Jose having placed the Coyote Valley's most significant agricultural land preserves in an "Urban Reserve" designation several decades ago. This action was perceived as a promise of the inevitability of future high density urban development. The potential for commercial, office, campus-industrial and high density residential attributable to those decisions quickly led to the acquisition of most of those lands by owners and corporations on speculation that some day, the city would provide a specific plan to fulfill the promise of complete urbanization of the area north of Palm Avenue. Those heightened perceptions and the competition for those lands created by the planning boundary decisions of the city drove up real estate values, deterred agricultural use and investment, even for leases, discouraged retention of Williamson Act contracts, and had the effect of completely changing the perceptions of viable long term agricultural use potential for the area for a very long time. Only now, with the possibility of a Specific Plan for Coyote Valley put off during the life of the Envision 2040 General Plan are the pressures and demands for urban development in Coyote being reconsidered, such that the future of agriculture in Coyote Valley can be re-envisioned.

Land Conservation (Williamson Act) contracted land and land under an Agricultural Preserve

Among the ten Williamson Act restricted parcels identified in the draft EIR the Santa Clara County Planning Office has identified the entire proposed project area under a Board adopted Agricultural Preserve Area as illustrated in the enclosed Agricultural Preserve Map. The purpose of the County agricultural preserve area is to define the boundaries of those areas within the County that contain lands eligible for consideration for contracts pursuant to the Williamson Act. The establishment disestablishment or alteration of an agricultural preserve is a legislative act as defined in County ordinance code section C 13 – 4 through C 13 – 8 and Government Code section 51230 – 51239.

Any public agency (as defined by Gov. Code §51291, subd. (a)) considering locating a public improvement on land restricted by a Land Conservation (Williamson Act) contract or land within an agricultural preserve is required to notify the Director of the Department of Conservation, of its intentions (Gov. Code §51291, subd.(b)). In addition, termination of a Williamson Act contract for a public improvement by acquisition can only be accomplished by a public agency which has the power of eminent domain. The State Department of Conservation must be notified

in advance of any proposed public acquisition (Government Code §51290 - 51292), and specific findings must be made. This notification shall be submitted separately from the CEQA process and CEQA documentation. It would be advised that the City of Morgan Hill contact the Department of Conservation directly and speak to Jacquelyn Ramsey at (916) 323-2379 for technical assistance. Jacquelyn can also be reached via email at Jacquelyn.Ramsey@conservation.ca.gov.

Enclosed are detailed noticing requirements along with instructions. Although the project may not be constructed in the near future, once Williamson Act restricted parcels or parcels within an Agricultural Preserve have been identified as part of the scope of work they are subject to the Williamson Act public acquisition notification process as described in the enclosed Land Conservation (Williamson) Act Public Acquisition Notification Process.

Please contact the State Department of Conservation for further assistance on this matter.

The draft EIR agricultural resources section does not provide a comprehensive agricultural inventory of the existing agricultural activities in the subject area. As you can see in the enclosed air photo more than just the 10 parcels totaling 81 acres under a Williamson Act contract are in agricultural activity. To better understand the agricultural impacts in the subject area and surrounding lands, the County would suggest a comprehensive and adequate inventory of existing agricultural activity in the subject area. The County Planning Office suggest you contact the Santa Clara County Division of Agriculture for a thorough review of pesticide permits and data compiled in the annual crop report to be included in the analysis. This in turn can disclose the active agricultural use in the subject area that is at greater risk of displacement. For detailed information on agricultural activity in the proposed project area please see the enclosed Agricultural Activity Map dated 1/30/14. Additional analysis will disclose any potential conflicts with nearby pesticide use and students attending the High School or persons attending any outdoor sports activities within the vicinity. Future mitigation measures should prioritize public health and safety efforts between the agricultural community and the school. Enclosed for your information is County Ordinance Code B29 which reviews Agriculture rights. Please note that pesticide use near a school will be considered a sensitive area therefore requiring a greater buffer zone which will result in additional loss of agricultural acreage surrounding the school.

The Santa Clara County Planning Office highly recommends working with the Santa Clara County Deputy Agricultural Commissioner on this matter. For more information please contact Eric Wylde, Deputy Agricultural Commissioner at 408.918.4626.

Within the agricultural resources section of the draft EIR several County General Plan policies are mentioned which include County policy R – RC 57 which clearly encourages the retention of prime agricultural land and County policy R – RC 66 which promotes retaining Williamson Act contracted lands. As discussed in the draft EIR the majority of the land in the proposed project is

identified as prime farmland and/or farmland a statewide importance which would be in conflict with both General Plan policies R-RC 57 and R-RC 66.

Additional Recommended Agricultural Mitigations:

In addition to the proposed Agricultural Mitigation measures in the Draft EIR the County would highly recommend the City of Morgan Hill follow the LAFCO adopted agricultural mitigation policies that best address local concerns to protect and preserve agricultural land. Please see the enclosed LAFCO "Agricultural Mitigation Policies." Due to the net loss of prime farmland we would recommend the purchase of agricultural conservation easements be located within Santa Clara County within the Sphere of Influence of a local City preferably within the Sphere of Influence of the City of Morgan Hill. Prime farmlands are generally located on the valley floor within the Sphere of Influence of local Cities. This in turn will help preserve the remaining prime agricultural land within Santa Clara County while preventing urban sprawl.

Other innovative forms of agricultural mitigation measures can also be incorporated into the EIR. For example, given the rich agricultural heritage and legacy of the Santa Clara Valley, agricultural related public art work such as mosaic artwork, engraved cement and or other forms of beautiful artwork depicting agricultural symbols such as garlic, row crops, cherry orchards or slogans such as the Valley of Hearts Delight can be used as a unique form of preserving the rich agricultural history in the area given the significant and unavoidable loss of prime farmland caused by the proposed project.

Air Quality / Greenhouse Gases

It should be noted that the conclusions regarding the significance of greenhouse gas emissions from the project appear to be incorrect and inconsistent with the quantitative analysis conducted for the project within the DEIR. As correctly stated within the DEIR, the threshold for Greenhouse Gas emissions established under BAAQMD's CEQA Guidelines is 1,100 MMT CO₂ as a "bright line threshold" or alternatively 4.6 metric tons of CO₂ equivalent per service population. Table 2.2-14 within the DEIR, based on calculations conducted and shown in Appendix C, disclose that operational greenhouse gas emissions from the High School would be 5,459 MMT CO₂. This table also shows that the project service population associated with the High School would be 1,175 persons. However, the table incorrectly displays the emissions per service population based on these calculations. $5,459 / 1,175 = 4.64$ emissions per service population, not 3.16 as shown. Under this calculation, both the total greenhouse gas emissions associated with the project (5,459 MMT) and the ratio based greenhouse gas emissions (4.64 metric tons per service population) are in excess of the BAAQMD thresholds. Thus, this impact would be considered significant, not less than significant as shown in the DEIR conclusions at the bottom of page 3.3-65. Per Section 15088.5 of the CEQA Guidelines, a lead agency is required to recirculate an EIR when significant new information is added to the EIR after public

notice, including a discloser showing that a new significant environment impact would result from the project. As the correction described above in the DEIR based on the quantitative supporting evidence would disclose a new significant impact, recirculation of the SEQ DEIR would be required.

Biology

The Biological section of the DEIR for the SEQ project does not appear to adequately evaluate all special status species that could be impacted by implementation of the project. The DEIR accurately identifies that the impacts to sensitive biological resources (riparian / wetlands) and 18 wildlife and plant species will be addressed through compliance with the Santa Clara Valley Habitat Plan. However, there are several special status species that are known to occur in the vicinity of the SEQ area that are not "covered species" under the Habitat Plan. As disclosed in the Coyote Highlands Cluster Subdivision EIR, prepared for a subdivision project that borders the SEQ project to the east, special status species such as the Golden Eagle, American Badger, and Dusky Footed Woodrat, are known to occur in the area. This DEIR is available for review on the County Planning website at www.sccplanning.org under "Environmental Documents". In short, the DEIR must be revised to evaluate potential impacts to these species.

Cultural Resources

Relative to cultural resources, the following comments are provided: The proposed project overlays partially parcels located in the Unincorporated Santa Clara County. The Draft Environmental Impact Report (DEIR) does not acknowledge or address potential impacts to properties listed in the Santa Clara County Heritage Resources Inventory.

APN	Address	Name of Historic Resource	Evaluation Document
817 -20 -008	2214/2215 Tennant Avenue	Castillon Farm	Department of Parks and Recreation ((DPR 523 Forms)
817 - 23 - 009	0 Tennant Avenue	Fountain Oaks Ranch	Department of Parks and Recreation ((DPR 523 Forms)
817-23 - 006 817 - 23 -012 817 - 24 - 002 817 - 29 - 005	15420 Carey Avenue	Kellogg Springs	Historic Resource Evaluation (HRE) August 2012

(See attached maps for reference)

The DEIR should acknowledge the above resources and the potential for impact through the project.

Hydrology

The section of Tennant Creek from just south of the existing Dunne Avenue running southeast

through Tennant Avenue and then running southeast to parallel Hill Road to Maple Avenue is identified as a Floodway on the current FIRM panels. Please see the attached FIRMettes. These facilities have been identified in the current Federal Insurance Study (FIS) as a regulatory floodway and floodplain of known and unknown base flood elevation and are located in the unincorporated Santa Clara County. Pursuant to Title 44 Code of Federal Regulation, Section 65.3 all improvements that will affect the base flood elevations in Tennant Creek through that portion of the unincorporated County floodway will require the submittal and issuance of a Floodplain Development Permit through the Santa Clara County Building Office.

As much of the work is in the Floodway, the above Floodplain Development Permit (FDP) application will require a Conditional Letter of Map Revision (CLOMR) be prepared to the FEMA requirements with review and approval by County and FEMA staff prior to issuance of the FDP. The permit application will also require a Letter of Map Revision (LOMR) be prepared to the FEMA requirements, with review and approval by the County, the Santa Clara Valley Water District, and FEMA staff six months prior to the completion of construction.

Please note that when plans are submitted for the Floodplain Development Permit, the following information is required:

- Two full sets of construction improvement plans including erosion control.
- Two complete CLOMR applications with all required hard copies and electronic copies.
- Clearance Letters or copies of permits as applicable from Army Corp (404 permit), Regional Board (401), NOAA Fisheries, Fish & Wildlife, Fish & Game, and any other state, local or federal agencies, including San Benito and Santa Cruz Counties. Per FEMA requirements of the local floodplain administrator, Santa Clara County will review the plans and check for conformance with the local, state, and federal agencies.
- A signed and stamped No Rise Certificate prepared by a Registered Civil Engineer.
- No Adverse Impact Certificate / Statement prepared by a Registered Civil Engineer.
- A No Impact to Structures Statement prepared by a Registered Civil Engineer. Please use the FEMA example No Rise language on City letterhead. No Impact to Structures statement should state that there are no structures located in areas that could be impacted by the proposed development and/or be affected by the increased BFE (unless they have been purchased for relocation or demolition).
- Please include the following statements on the same letter to address the No Adverse Impact and No Impact to Structures. The No Adverse Impact statement should state that the proposed project does not:
 1. Increase the flow velocities of "Tennant Creek, Llagas Creek, and/or the Pajaro River",
 2. Expand or change the limits of the floodplain,
 3. Alter or change the physical characteristics of the floodplain, and

4. Decrease the flood storage capacity.

The DEIR contains no discussion of cumulative effects of the proposed drainage system on Tennant Creek, Upper and/or Lower Llagas Creek, and/or the Pajaro River.

The discussion under Significant Unavoidable Impacts as it relates to drainage does not address the cumulative effects of the City's efforts to urbanize the proposed drainage and drain major portions of the City to the south through the Upper Llagas Creek. Through the combination of the Butterfield Storm Drain Extension and Detention Facility, the US Army Corps Upper Llagas Flood Control Project, and this proposed project, most of the southward and eastward draining basins have been improved to drain the water more quickly out of the City into unincorporated lands. The Butterfield and Upper Llagas projects have been designed to provide 1% flood protection through the incorporated City limits, with little to no improvements benefitting the unincorporated properties. The DEIR contains no discussion of the downstream effects of the urbanization of another large portion of the City on the unincorporated properties has been presented.

Land Use

p. 3.9-7, 2nd ppgh:

The description of development potential in the easterly portions of the SEQ Area for Open Space with a "Planned Development overlay" is confusing. See previous comments on the subject.

p. 3.9-9, County of Santa Clara General Plan:

This section of the DEIR states the County's General Plan provides a blueprint for the unincorporated areas of the County only. In fact, since 1980, the County's General Plan has contained a vision, strategies and major policies for the county as a whole that reflect urban growth management and development policies supported and adopted by the cities, County and LAFCO since the early 1970s. Refer to the Growth & Development Chapter of Book A of the General Plan, from which a number of relevant policies might be referenced or cited.

The DEIR should have also included reference to and description of the entire set of jointly adopted and mutually-supported policies of the City and County pursuant to the city's original UGB. These were the product of a joint study and planning project in 1996, shortly after the County's General Plan was adopted in 1994 promoting the use of Urban Growth Boundaries, in preference to policies that had been included promoting the use of Urban Limit Lines. The result of that project was that the City and County each adopted mutually-agreed upon and identical policies as amendments to their respective general plans regarding the City's UGB, the first among all the cities to be adopted. These are contained in policies R-LU 167 – 185 in the County's General Plan, as originally adopted in 1996 [File 6274-96GP].

p. 3.9-21, Table 3.9-3 contains a selection of applicable UGB-related policies adopted by both the City and County. Policy R-LU 170, which was not included, expresses the intention and commitment to consider significant UGB changes, other than minor incremental adjustments or corrections, only in the context and deliberation of a comprehensive general plan update for the city. Such an update is presently in progress, but the SEQ/High School projects and major amendments contemplated to the UGB and other planning boundaries described in the DEIR are not being discussed or considered integrally within the context of the General Plan update.

The City and County mutually agreed to and adopted this policy constraint for the simple reason that an UGB amendment(s) of significance should be part of a carefully considered set of options for the long term growth, benefit, and land use analysis pertinent to the city as a whole, given the implications of a major versus a minor, incremental adjustment to the UGB.

Unless such mutual policy has been eliminated from the City's General Plan, how is the DEIR able to conclude the project is consistent with the Morgan Hill General Plan in this respect?

p. 3.9-27 – 3.9-34, LAFCO Policies:

The DEIR states that the proposed boundary adjustments are intended to provide logical, orderly, and well-defined jurisdictional boundaries for the City (3.9-28). Areas most proximate to the city's existing city limits and USA could be considered more logical candidates for inclusion in future urbanization plans for the city. It is more arguable that annexation outside of an USA such as that proposed does not meet the intent or purpose of LAFCO policies. Such policies have been implemented and are intended to provide for very limited exceptions for such annexations when necessary as part of an annexation process that crosses the USA. Previous application of the policy actually ensures the acquisition and preservation of rural open space outside the USA in its largely natural state. See examples from eastern San Jose hillside areas, where such allowances occurred to avoid partial parcel annexations.

Noise

The Noise analysis within the DEIR does reference or use the County's General Plan and Noise Ordinance standards. The proposed SEQ project would result in the development of several intensive urban uses (Recreation / Leisure, High School) within a setting that is currently rural. While these areas and some of the surrounding properties will be annexed into Morgan Hill, per the SEQ proposal, many lands within the SEQ area are proposed to remain within the County. As such, existing residences in these rural unincorporated areas would be exposed to new noise from both on-site operations and traffic resulting from the SEQ project. The DEIR noise analysis needs to be modified to use the County's noise standards to evaluate potential impacts to these residences and other sensitive receptors within the unincorporated areas. This includes

both the County General Plan Noise standards (page P-7 of Book B of the County General Plan) and the County Noise Ordinance.

Population and Housing

p. 3.11-10, the DEIR concludes the proposed projects would not induce substantial population growth or housing development. Given that the population densities and minimum lot sizes, or other standards defining maximum population, development, and occupancies for the SEQ have not yet been developed, and no hypothetical build-out of the SEQ is defined, this conclusion does not seem supported. It may make some sense relative to the whole population and size of Morgan Hill, but should be factually compared to the expected population and growth of housing in the area under its current unincorporated jurisdiction and long range planning. County records indicate that the 35 year trend since roughly 1980 has been that less than one new home is approved per year on existing lots of record. The vast majority of parcels already contain a residence, so that population growth for residential and non-residential uses under the SEQ would appear to be significantly greater.

p. 3.11.11, 3rd ppgh.:

The description of possible development outcomes, numbers of existing lots of record, and transfer of development rights to elsewhere in the City is incomplete and confusing. If maps of existing lots of record, possible development schemes or diagrams for the areas to be annexed, and lot sizes were provided in a visual or graphic manner, it would facilitate the reader's understanding of the distribution of uses and potential impacts or uses for the lands in question.

p. 3.11-12, 1st ppgh.:

The DEIR concludes that because major water and sewer lines already exist outside the city's USA north of Tennant Avenue, expanding the USA to include various portions of these lands would not be a barrier to growth and consequently would have no significant impact. If such lands could not be urbanized or legally connect to services unless annexed to the city, it would follow that the inclusion of rural lands in the USA followed by city-conducted annexations would actually be part of a project suite that removes existing barriers to development.

Alternatives

The SEQ DEIR evaluated four alternatives to the proposed project. These includes the CEQA mandated "No Project Alternative" in addition to the (a) Sports / High School / Ag Preservation only, (b) Agricultural Preservation Program only, and (c) High School Only Alternatives. As the proposed project consists of a major Planning action that will result in annexation, modification of the Urban Growth Boundary, and multiple new General Plan and Zoning designations, it appears that this range of alternatives is inadequate. In addition, the project is disclosed to result in a minimum of eight significant and unavoidable environmental impacts. Almost all of the

disclosed significant and unavoidable environmental impacts are directly related to the intensity of proposed land use and resulting noise, traffic and air quality impacts. As the size, scale, and intensity of the proposed uses, namely the High School and Sports / Recreation uses, create these environmental impacts, it is difficult to understand why a "Reduced Scale" Alternative is not evaluated. This reduced scale alternative would include a potential minimization in the scale of the proposed Sports / Recreation uses (less lands designated with this General Plan designation) and a High School that is smaller in size. There is no evidence available within the DEIR demonstrating why a reduced scale alternative is not evaluated, meeting the requirements of CEQA, by feasibly attaining most of the objectives of the project but avoiding or substantially lessening the environmental impacts p. 5-3, Alternatives

The narrative description of the alternatives would benefit greatly from diagrams or maps depicting the differences in the nature and extent of planning boundaries and development outcomes.

p. 5-28, Basis for Project

The DEIR states that a purpose of the project is to close a gap in the existing ULL boundary, and avoid 8-10 acre "ranchette development" trends under continued County General Plan policies and jurisdiction. This ranchette development pattern is described as undesirable in part because the population growth that pattern represents would "result in greater demand for city services and infrastructure without the underlying tax base to support it, as well as the loss of viable agricultural land."

This statement is unusual and unsupported by the document's description of the projects. No future population estimate is provided in this context if the area was to remain unincorporated and land uses remain either residential or agricultural/open space. All such rural lots may only be developed with a single family residence provided each demonstrates the capability of providing a suitable building site with no reliance on urban services or infrastructure, for example, using on-site wastewater treatment systems. Even at build-out with one home per legal lot, there would be no impact on or demand for the City's municipal services. In contrast, an area of the SEQ proposed for annexation would require a surrogate for municipal services in the form of a private water system, as described in the DEIR.

Cumulative Impacts

The Cumulative Impacts section of the DEIR does not appear to adequately evaluate a sufficient number of projects that should be considered in tandem with the SEQ proposal for cumulative impacts analysis. Specifically, the Cumulative Impacts section only evaluates other development projects within Morgan Hill. As the proposed SEQ project intends to annex and urbanize vast lands within the rural, unincorporated area, it is unclear why other rural, unincorporated projects were not evaluated as part of this analysis. At minimum, the cumulative impacts analysis needs to consider environmental impacts associated with the Coyote Highlands Cluster Subdivision,

located immediately east of the SEQ area, and referenced above under Biology. Additionally, it is ironic that the DEIR states that one of the objectives of the SEQ project is to annex lands into the City to prevent the slow conversion of agricultural parcels currently within the County into rural residences. If there truly is substantial evidence of in association with past, present, and probable future projects in this area, why aren't these described.

Appendix K: Agricultural Land Preservation and Mitigation Program

p. 8, Qualifying Entity

It is problematic for a non-governmental entity that may cease to exist or be financially feasible in the long term, such as a private organization, non-profit, or trust, to be the favored entity for owning, enforcing, and managing easements or fee title ownership of agricultural lands. Provide explanation of why such an organization is favored, and what the implications would be if a private organization holding deeds to land and easements to agricultural lands ceased to exist or otherwise became unable to perform its obligations.

p. 10, Affected Areas

The DEIR states that areas with large portions of land reserved for open space or sports fields may be excluded from impact assessment and mitigation requirements, on the assumption that in the future these areas could be put back into agricultural use. This assumption is very unlikely to be borne out. Once lands are surrounded by or adjacent to others for which agricultural uses have been abandoned for other forms of urban uses or development, or placed within an ULL whose definition provides for future urbanization of uses, sports fields or similar uses would be very unlikely to be converted to future agricultural uses in the SEQ.

Concluding Remarks:

The SEQ Land Use Plan is the much more predominant feature or project of the DEIR, with the Agriculture Preservation Program being an appendix to and featured mitigation for this and other projects that may convert sizeable areas of agricultural lands within the city.

The separation of the SEQ Land Use Plan and its programmatic development components from the city's overall general plan update serves to isolate and segregate the discussion of its meaning and implications to the city's future from the larger general plan update discourse, particularly the major UGB and ULL expansions included. This decision is contrary to generally accepted planning principles, as well as the understandings and mutually-adopted policies that originated the UGB.

The No Project alternative is considered an unacceptable planning outcome for the SEQ, and a reason why the City has chosen to pursue the SEQ Plan as an intervention. The status quo includes the area remaining largely under County jurisdiction and General Plan designations, providing for existing or incrementally altered USA and UGB locations, and agricultural and open space land use patterns with limited residential uses on existing lots. The County's Agriculture land use designations outside any city's USA are intended to encourage agriculture and to maintain non-urban use patterns until such time as inclusion in an USA is deemed necessary and appropriate by LAFCO.

In fact, current policies of the County and LAFCO have largely done their jobs preserving such lands for rural uses and future urbanization needs through policies that limit development, favor incremental USA expansion, promoting urban infill, and minimizing inefficient service extensions.

The rationale and outcomes promoted for the SEQ Land Use Plan are reminiscent of California's pre-LAFCO annexation and growth practices. The SEQ Plan promotes unusual if not downright irregular boundaries, premature annexation and development of rural lands, skipping over more proximate lands to city limits and urban patterns of existing road networks and services, and converting agricultural and open space lands without clear necessity.

Thank you for the opportunity to comment on the DEIR. We look forward to reviewing the Final Environmental Impact Report (FEIR) when it becomes available.

For questions pertaining to the Williamson Act Contract comments, you may contact Sylvia Ornelas-Wise at (408) 299-5759, Sylvia.Ornelas-Wise@pln.sccgov.org. For questions pertaining to the Cultural Resources comments, you may contact Priya Cherukuru at (408) 299-5787, Priya.Cherukuru@pln.sccgov.org. For questions pertaining to the Hydrology comments, you may contact Chris Freitas at (408) 299-5732, Chris.Freitas@pln.sccgov.org. For questions pertaining to the other comments, you may contact either Bill Shoe at (408) 299-2749, Bill.Shoe@pln.sccgov.org, or Rob Eastwood at (408) 299-5792, Rob.Eastwood@pln.sccgov.org.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ignacio Gonzalez', with a long, sweeping horizontal line extending to the right.

Ignacio Gonzalez

Dept. of Planning & Development

Cc: Planning – Kirk Girard, Bill Shoe, Rob Eastwood, Priya Cherukuru, Sylvia Ornelas-Wise

Land Dev. Engineering – Darrell Wong, Chris Freitas

County of Santa Clara

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Reservations (408) 355-2201
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February 6, 2014

City of Morgan Hill
Community Development Department
Attn: Mr. Andrew Crabtree, Planning Manager
17575 Peak Avenue
Morgan Hill, California 95037

SUBJECT: Draft Environmental Impact Report (EIR) for the Citywide Agriculture Preservation Program and Southeast Quadrant Land Use Plan (State Clearinghouse No. 2010102010)

Dear Mr. Crabtree:

The County of Santa Clara, Parks and Recreation Department (County Parks Department), has reviewed the Draft EIR for the Citywide Agriculture Preservation Program and Southeast Quadrant (SEQ) Land Use Plan (Project) (State Clearinghouse No. 2010102010) and submits the following comments for consideration.

The County Parks Department is focused on land use plans and policies related to the provision of regional parks, countywide trails and recreational facilities, and consistency with the County of Santa Clara General Plan policies related to the planned countywide trails that are part of the Board-adopted *Santa Clara County Countywide Trails Master Plan Update* in the Parks and Recreation Element of the General Plan.

As we understand with the Project's recommendations, the City of Morgan Hill proposes annexation of 759 acres of unincorporated lands within the 1,290-acre Southeast Quadrant (SEQ) Area into the City and an Urban Service Area (USA) adjustment that would result in the development of a portion of the SEQ Area (approximately 759 acres) and approximately 531 acres of SEQ lands remaining under County jurisdiction.

One of the Project objectives is "to establish a new Sports-Recreation-Leisure (SRL) General Plan land use designation and zoning classification and implement the new Sports-Recreation-Leisure land use designation and zoning district over a portion of the SEQ Area." Annexed as part of the City, the proposed SRL zoning classification is anticipated to include 251 acres

comprised of Sub-district A and Sub-district B, which the Draft EIR illustrates in Exhibit 2-11b and describes on page 5-6:

“To summarize, SRL would feature two Sub-districts (A and B) that would support a variety of sports, recreation, and leisure uses, including but not limited to adventure sports/facilities, arts and crafts, batting cages, equestrian centers, farmers markets, and indoor/outdoor centers (Sub-district A), and gas stations, restaurants, motels/hotels, and grandstands/stadiums (Sub-district B).”

The SRL land use designation should include the planned recreational facilities such as the City’s planned bikeways and trails within this land use area, since these planned citywide facilities are identified in the 2008 City Council-approved Bikeways Master Plan Update and Trails Study. The Draft EIR should evaluate the future trail and bicycle connectivity to these proposed facilities in the SRL Sub-districts, as identified in the City’s General Plan.

- Planned shared-use path (Madrone Channel Trail) along the west side of the SRL boundary and along Highway 101
- Planned bike lane (both sides) on Barrett Avenue
- Planned bike lane (both sides) on Murphy Avenue
- Planned bike lane (both sides) on Tennant Avenue

Future Implementation of the Planned Countywide Trail Route within Lands Annexed to the City of Morgan Hill

Given the Project’s proposed Annexation to the City, General Plan Amendment, and Zoning Code Amendment for the SEQ Project Area, the Draft EIR does not clearly explain, at the programmatic level, how the planned countywide trail route C27, San Martin-South Valley Connecting Trail, would be implemented within the SEQ Project Area; how the countywide trail would be incorporated as part of the City’s trails plan and addressed in subsequent project applications when detailed development or land use proposals are submitted for discretionary approval once the lands are annexed to the City of Morgan Hill. This is inconsistent with County General Plan Policy C-PR 29:

- C-PR 29 Annexation of lands that include trails shown on the Countywide Trails Master Plan Map shall be conditioned on the annexing jurisdiction’s adoption of relevant County trails plans and implementation of regional trail routes.

In addition, the Draft EIR states the following:

2.3.5 Programmatic Project Applications

“The following four project applications are analyzed programmatically in this Draft EIR...As previously stated, project-level CEQA review will occur when detailed land use proposals are submitted for discretionary approval. There is currently no specific schedule or anticipated date for submittal of any of these programmatic project applications.”

In addition, the Draft EIR discusses on Page 2-55:

“Development of the Chiala Property will require approval of a precise plan for the entire planned development, including project-level environmental clearance. Anticipated land uses include approximately 86 acres of sports-recreation-leisure related uses, 107 acres of residential estate-sized lots including the approximate 31-acre historic homesite that will remain unchanged, and 114 acres of agriculture-related uses. The Sports-Recreation-Leisure uses may include internationally sanctioned, professional-quality cricket grounds; polo fields; an equestrian facility; a culinary center; and small scale visitor accommodations.”

Based on the Draft EIR descriptions of the Planned Development of the Chiala Property, there is a lack of clarity with regards to the future implementation of planned countywide trails in the SEQ Project Area, and subsequently as part of the detailed land use proposals. As a result, this Draft EIR should address, at a programmatic level, the planned countywide trail C27 that is identified within the project vicinity of the Chiala Planned Development (PD), a project application identified within the SEQ Project Area.

Zoning of High School Site as a Public Facility

The Project Description lists as one of its six project components a new South County Catholic High School:

6) South County Catholic High School – A 1,600-student private high school on approximately 38 acres is evaluated at a project-level in this Draft EIR.

On page 2-52, the Draft EIR states, “the High School site would be zoned public facilities as well as a small area of Residential Estate.” However, in various descriptions in the Draft EIR, there is vagueness with regards to the public uses on the High School site.

- “Develop a new, private High School in the southern portion of Santa Clara County to serve existing and future local demand for private education.” (Project Objectives in Executive Summary, page ES-5)
- “The proposed High School would offer a parochial, private education alternative for grades 9-12.” (Table 3.9.3)
- “At buildout, the facility would accommodate up to 1,600 students. Facilities would include classrooms, a gymnasium, a library, a theater, music room, a chapel, track and field facilities, sports fields, and baseball/basketball/tennis courts.” (page 5-6)

The Project description should describe the anticipated public uses at the school site, if it were zoned as a public facility, and the type of public benefit that school-age children and the community would receive at this public facility. Since the Project Objective does not discuss the public benefit that the High School would provide to the City residents, it is not clear if the High School intends on allowing community access to its school grounds (i.e. track and field facilities,

sports fields, baseball/basketball/tennis courts) that may potentially be used as a shared public open space and recreational area during non-school hours.

Land Use Section

The Draft EIR does not adequately discuss the Project's consistency with the County's and the City's General Plan policies related to the County's and the City's respective roles with the provision of recreational facilities such as planned trails and bicycle facilities within the SEQ Project Area boundary (see excerpt from Table 3.9.3 below).

Table 3.9-3: City of Morgan Hill/County of Santa Clara General Plan Consistency Analysis

Element	Goal/Objective/Policy		Consistency Determination
	No.	Text	
	Goal 18	Useful, accessible and high-quality park, recreation and trail facilities and programs	Consistent: The SRL uses would provide high quality recreational and open space uses accessible to citizens of the City. (SEQ Area)

In Table 3.9.3 excerpt, the Draft EIR states that there is consistency of the Project's proposed new Sports-Recreation-Leisure (SRL) uses in terms of providing "high quality recreational and open space uses accessible to citizens of the City." However, the Draft EIR does not discuss nor analyze the Project's consistency with the City's General Plan Policy Goal 18 which states the following policies 18K and 18I related to the development of trails:

Goal 18. Useful, accessible and high-quality park, recreation and trail facilities and programs.

Policy 18k. Encourage the development of trails along creeks and drainage channels, connecting parks, regional trails, schools, library, and other community facilities.

Policy 18l. Coordinate trails, parks, and recreation facilities with a citywide bikeways system to include bicycle paths, lanes and routes.

The current Project and Draft EIR does not adequately discuss the implementation of the planned countywide trail, San Martin-South Valley Connecting Trail, and the City's planned citywide trails and bicycle facilities within the SEQ Project Area, identified in the City's 2008 Bikeways Master Plan Update and Trails Study:

- Planned shared-use path (Madrone Channel Trail) along the west side of the SRL boundary and along Highway 101
- Proposed shared-use trail along Tennant Creek (Tennant Creek Trail)
- Planned bike lane (both sides) on Condit Road
- Planned bike lane (both sides) on Barrett Avenue
- Planned bike lane (both sides) on Murphy Avenue

- Planned bike lane (both sides) on Tennant Avenue
- Planned bike lane (both sides) on Hill Road
- Planned bike route with shoulder striping along Maple Avenue (between Hill Road and Center Avenue)

The Draft EIR does not adequately address the County's planned countywide trail and the City's planned trail and bikeway systems that are included in the respective General Plans, thus the Project is inconsistent with General Plan policies related to implementation of planned trails within the SEQ Project Area:

County's General Plan Policies

- C-PR 22.1 Encourage private developers to incorporate trail routes identified on the Countywide Trails Master Plan Map into their development project designs.
- C-PR 28.3 In coordination with the County Parks and Recreation Department, cities, public entities, organizations, and private citizens should be encouraged to implement the trails plan where practical and feasible.
- C-PR 29 Annexation of lands that include trails shown on the Countywide Trails Master Plan Map shall be conditioned on the annexing jurisdiction's adoption of relevant County trails plans and implementation of regional trail routes.

City's General Plan Policies

- Circulation Element Policy 8g: Where feasible, implement the trails and pedestrian system concurrent with adjacent developments
- Community Development Goal 8, Policy 18K
- Community Development Goal 8, Policy 18I

The Project's inconsistency with these General Plan goals and policies is a significant impact that would need to be addressed and mitigated in the EIR.

Transportation Section

The Draft EIR inadequately discusses the Project's consistency (and conflicts) with planned countywide and citywide trails plans within the SEQ Project Area in **Impact TRANS-6**.

Impact TRANS-6: The proposed project may conflict with adopted policies, plans or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decreases the performance or safety of such facilities.

The Impact Analysis only discusses existing bicycle facilities along any of the project frontages or in the project vicinity. The Impact Analysis does not analyze the General Plan's planned countywide trail route C27, San Martin-South Valley Connecting Trail, within the SEQ Project Area. The countywide trail route is identified in the *Santa Clara County Countywide Trails Master Plan Update* map, which was adopted as part of the Parks and Recreation Element of the County General Plan (November, 1995). In addition, the Impact Analysis does not discuss the planned trail and bicycle facilities in the City's 2008 Bikeways Master Plan Update and Trails Study.

At a Project-level analysis, the proposed High School site does not address the implementation of the planned bike lanes which surround the site along three frontages – along Barrett Avenue, Murphy Avenue and Tennant Avenue. The Draft EIR states, “...installing Class II or Class III bicycle facilities along other segments of Barrett Avenue, Murphy Avenue, or Tennant Avenue in the project vicinity is outside of the scope of the High School project.” In addition, the Draft EIR states that “...the High School project is evaluated at a project level of detail and should not require further review under CEQA” on page ES-4 of the Executive Summary.

However, the Project-level analysis in the Draft EIR should analyze the Project’s impacts of not providing for planned bike lanes as part of the High School project site, and address potential conflicts between school facility and planned bikeways, how to ensure safety of the students, visitors and the community who use the roads and sidewalks to walk and bicycle to the proposed school site.

Given that the buildout of the High School would generate new vehicle trips that would contribute to deficient intersection operations and require the High School to install necessary traffic improvements that would still not fully reduce its impacts, resulting in significant and unavoidable impacts, the Project should mitigate for potential transportation and circulation impacts of the High School site to the community through the implementation of the City’s planned bicycle facilities.

4.2.12 – Public Services and Recreation

The Draft EIR states, “the proposed SEQ programmatic uses would not have significant impacts on fire protection, police protection, schools, parks, or other public facilities, which preclude the possibility of related cumulative impacts.” However, the Draft EIR does not adequately analyze nor discuss the impacts of the proposed new residential development on the City and to the closest regional park (Coyote Lake Harvey Bear Ranch County Park), city parks, trails and bicycle facilities (existing and planned facilities).

The Draft EIR discusses “...new residential development anticipated within the eastern portion of the SEQ where development rights are being transferred to areas closer to urbanized areas of the City, which would result in no more than 38 new residential units.” It is unclear how the City would address the future park and recreational needs for the new resident population in the Chiala Planned Development within the SEQ area, which is anticipated to be annexed to the Morgan Hill City limits but whereas the properties would not be included within the City’s USA boundary.

Although not a substantial population growth anticipated in the Planned Development area, the Draft EIR does not adequately discuss the park and recreational needs for these new residents within the City’s limits at a programmatic level.

In addition, the planned countywide trail route C27, San Martin-South Valley Connecting Trail, within the SEQ Project Area is not adequately analyzed as part of the proposed annexation of the Project Area, as related to County General Plan Policy C-PR 29.

- C-PR 29 Annexation of lands that include trails shown on the Countywide Trails Master Plan Map shall be conditioned on the annexing jurisdiction's adoption of relevant County trails plans and implementation of regional trail routes.

In summary, the Draft EIR should further analyze the Project's impacts to planned countywide trails, planned citywide trails and bicycle facilities, and clarify the Project's land use consistency related to parks and recreation in the County and City General Plan policies. We would appreciate a copy of the Final EIR once it is available for public review.

Thank you for the opportunity to comment on the Draft EIR for the Citywide Agriculture Preservation Program and Southeast Quadrant Land Use Plan. If you have any questions, please do not hesitate in contacting me at Jane.Mark@prk.sccgov.org or at (408) 355-2237.

Sincerely,



Jane Mark, AICP
Senior Planner

CC: Robb Courtney, Director, County Parks and Recreation Department
Julie Mark, Deputy Director, County Parks and Recreation Department
Colleen Oda, County Planning Office
Dunia Noel, LAFCO

County of Santa Clara

Roads and Airports Department

101 Skyport Drive
San Jose, California 95110-1302
1-408-573-2400



February 14, 2014

Rebecca Tolentino
Senior Planner
City of Morgan Hill
17575 Peak Avenue
Morgan Hill, CA 95037

SUBJECT: Citywide Agriculture Preservation Program and Southeast Quadrant (SEQ) Land Use Plan Draft Environmental Impact Report (DEIR)

Dear Ms. Tolentino:

The County of Santa Clara Roads and Airports Department is submitting the following comments.

- 1) *Program-Level DEIR.* The DEIR states it is providing a programmatic-level analysis of the SEQ area and commits to a “more detailed project-level analysis of intersections and freeway segments” as specific development projects are identified (page 3.13-25). These future project-level analyses (e.g., Transportation Impact Analysis (TIA) reports) should include county intersections and road segments serving the SEQ area and not be limited to US 101 and roads within the SEQ area. In addition, the future project-level analyses should include mitigation measures for significant impacts on County roads.
- 2) *Project-Level DEIR: Catholic High School.* The project trip distribution map indicates that 30% of the high school generated trips will originate from south of the project site (Exhibit 3.13-6). It would appear that all of these trips were assigned to US 101, exiting at Tennant Avenue. In addition, the intersections and roads analyzed for both the program level SEQ and the project level high school were limited to the roads connecting to US 101 and did not include the various County roads that parallel US 101 and offer an alternate travel route. The DEIR also indicates that both the SEQ and high school project will have a significant impact on segments of US 101, including LOS F conditions and potential findings of “significant unavoidable impact” (page 3.13-66). The County’s experience is when the freeways become congested, drivers will choose to use parallel local roads. It is probable that students, parents, and staff traveling to the proposed high school from San Martin and Gilroy will use County roads, not US 101. The TIA did not adequately assess the road segment and intersection impacts for County roads that provide non-freeway access to the site. The County requests documentation of the potential impacts to County roads paralleling the freeway between Morgan Hill and Gilroy and commitment to mitigation measures for any significant impacts.

- 3) *Impact TRANS-1: High School Site (Project Level); page 3.13-41.* The project traffic is shown to degrade operations at the Tennant Avenue/Murphy Avenue intersection (Intersection No. 10) to LOS F conditions during the AM peak hour. The DEIR further notes that no mitigation is necessary because the applicant will be installing a traffic signal and dedicated eastbound left-turn lane prior to occupancy of the high school. The County requests clarification as to how the proposed intersection improvement project will be enforced if it is not identified as a mitigation measure. Will it be one of the City's conditions of approval for the project?
- 4) *MM-TRANS-2:SEQ Area.* This mitigation measure notes that for future land use development proposals within the SEQ area, project applicants shall pay all transportation-related traffic impact fees to the City. The scope of the traffic impact fees should be expanded to include mitigation of impacts to County roads.
- 5) The project should continue to coordinate with Caltrans as the project develops in order to mitigate impacts to the US 101 connecting ramps.

If you have any questions or concerns about these comments, please contact me at (408) 573-2465 or dawn.cameron@rda.sccgov.org.

Sincerely,



Dawn S. Cameron
County Transportation Planner

cc: MA

County of Santa Clara

Department of Environmental Health

Consumer Protection Division

1555 Berger Drive, Suite 300
San Jose, CA 95112-2716
(408)918-3400 FAX (408)258-5891
www.EHinfo.org



February 10, 2014

Rebecca Tolentino, Senior Planner
Community Development Department
City of Morgan Hill
17575 Peak Avenue
Morgan Hill, CA 95037

RE: City of Morgan Hill - Citywide Agriculture Preservation Program and Southeast
Quadrant Land Use Plan

Dear Ms. Tolentino,

The Department of Environmental Health, Consumer Protection Division has reviewed the
above-referenced report and has the following comments:

1. The Regional Water Quality Control Board-Central Coast Region shall be given the opportunity to review the report's "Wastewater" analysis for consistency with its Basin Plan and all potential impacts on existing, permitted wastewater treatment plants.
2. The California Department of Public Health shall be given the opportunity to review Appendix J: Water Supply Assessment, and any other relevant sections of this report for consistency with current statutes and policies within its purview, as the public agency charged with ensuring adequate [drinking] water quality and quantity for all potentially impacted entities.

Feel free to contact me at (408) 918-1958 or via email at Heather.Forshey@deh.sccgov.org if there are any questions.

Sincerely,

Heather Forshey, MS, REHS
Director, Consumer Protection Division

Board of Supervisors: Cindy Chavez, Mike Wasserman, Dave Cortese, Ken Yeager, S. Joseph Simitian
County Executive: Jeffrey V. Smith

From: Carol n Rich Neal [nealfamily1@hotmail.com]
Sent: Monday, February 17, 2014 3:57 PM
To: Rebecca Tolentino
Subject: Re: comments on SEQ Annexation

Dear Rebecca,

Thanks for the reply. I was wondering if you were aware of any legal ways as a property owner in the proposed annexation that I could use? What are the rights of property owners in this annexation process. Thank you. Carol Neal

From: [Rebecca Tolentino](#)
Sent: Friday, February 14, 2014 10:22 AM
To: [Carol n Rich Neal](#)
Subject: RE: comments on SEQ Annexation

Good Morning Ms. Neal,

Thank you for comments on the proposed Agricultural Lands Preservation Program and Southeast Quadrant Land Use Plan Project. I will forward your comments to our environmental consultants so that your letter and the responses will be incorporated into the Final Environmental Impact Report.

For updates on the project, please refer to the City's website at <http://www.morgan-hill.ca.gov/index.aspx?nid=670>

All the best,
Rebecca Tolentino

From: JULIE BORINA DRISCOLL [julieboridriscoll@sbcglobal.net]
Sent: Tuesday, February 18, 2014 1:37 PM
To: Rebecca Tolentino
Cc: Steve Tate; Mike Wasserman
Subject: Re: MH EIR Issues --Insurance Companies Should Have Comment Opportunity

Thank you, Rebecca. Appreciate your efforts.

We need to add to the equation--the wonderful news that the American Institute of Mathematics Castle will be built, the PGA Tour will be hosted at the site and the high school, designed to accommodate 1600 students (plus staff and teachers) will be built--all as Tennant as the main thoroughfare, bearing all the additional traffic this will bring on the country road, designed for the 1940's and 1950's. We just need upgrades, A-Z. Agricultural equipment cannot place the drivers and all around in harm's way, travelling 5-10 miles per hour, amongst all of this.

I think that our environmental consultants will be wise enough to understand the importance of the upgrades on Tennant Avenue given all the aforementioned, but just in case outside property owner input is needed, here it is.

Thank you. Julie 2/18/2014

Julie Borina Driscoll, Trustee and FLP General Partner
Borina Trust and Borina Enterprises, LP



PO Box 2402
Morgan Hill, CA 95038

Morgan Hill, February 18, 2014

City of Morgan Hill
Development Services Center
17575 Peak Avenue
Morgan Hill, CA 95037-4128
Attn. Ms. Rebecca Tolentino, Senior Planner

Re: Comments on the Draft EIR for the Citywide Agriculture Preservation Program and Southeast Quadrant Land Use Plan

Dear Ms. Tolentino,

Thrive! Morgan Hill appreciates the opportunity to comment on the Draft Environmental Impact Report (EIR) for the Citywide Agriculture Preservation Program and Southeast Quadrant Land Use Plan. Thrive! Morgan Hill (TMH) has been engaged in this issue for several years, providing written and public comments to the City on a number of occasions. As a grassroots group taking part in issues that affect the quality of life in our community, this project has been of particular concern to us due to its potential to negatively impact (1) the orderly growth of our city and (2) the preservation of farmland and open space on the immediate fringes of our city.

Altogether, 840 acres of the 1290 acre Southeast Quadrant are proposed to be within city boundaries that define future areas of urbanization. This includes 329 acres of the area the City is designating as the 'Agricultural Priority Area'. The Citywide Agriculture Preservation Program (CAPP) is intended to serve partly as an instrument to lessen the impact of the loss of farmland that will occur as a direct result of the implementation of this project (and others within the City's jurisdiction). Any purchase of agricultural lands to mitigate for the loss of farmland within Morgan Hill's jurisdiction can take place anywhere within Santa Clara County as long as it meets certain criteria of the CAPP.

The DEIR identifies significant unavoidable impacts to traffic and air quality as part of the implementation of the project. These impacts are cause enough for concern, yet after having reviewed the EIR to the best of our ability, we feel that the DEIR fails to sufficiently identify and analyze many other impacts of the project. In fact, TMH is deeply disappointed with the EIR's lack of reasonable and adequate analysis.

Due to our organization's resource constraints, TMH could not address all the concerns it had with this document's questionable content, but respectfully submits the following comments on the California Environmental Quality Act (CEQA) analysis contained in this EIR.

Adequacy of Project Description

The purpose of CEQA is not to generate paper, but to compel government at all levels to make decisions with environmental consequences in mind (CEQA Guidelines §15003 (g)). Thus, it is imperative that sufficient information is provided to adequately analyze the project.

Thrive! Morgan Hill is a local group of residents who are engaged with issues that affect the quality of life in our community. Our mission is to work constructively with the wide array of Morgan Hill community interests to find solutions to some of the challenges facing our city. We favor options that balance the community, economy, and environment.

As per the DEIR, the project encompasses a number of substantial parts: the Citywide Agriculture Preservation Program, annexation of County lands into City limits, expansion of three city boundary lines – the Urban Service Area (USA), the Urban Growth Boundary (UGB), the Urban Limit Line (ULL) - , the creation of the Sports-Recreation-Leisure (SRL) land use designation and zoning district (with two sub-districts), amendments to the text of the General Plan and the Zoning Ordinance to establish rules and regulations for the new land use designation and zoning district, four projects (Craiker Sports Retail/ Restaurant project, Puliafico SRL project, Jacoby SRL project, Chiala Planned Development) to be analyzed at a Program level, and the private high school which will be analyzed at the Project level.

CEQA doesn't require sweeping details of a project, but necessitates that an EIR define a proposed project with enough detail and accuracy to allow for informed decision making (CEQA Guidelines § 15124). To meet this basic standard, the EIR should:

- 1** Define the location of the CAPP, the physical conditions of the location, and a map identifying the boundaries and land uses of the location. These were not included in the project description. In actuality, the location of the CAPP was erroneously given as the SEQ Area Project (ES-3 of the Executive Summary).
- 2** The description of the Chiala Planned Development includes the use of a private water system and septic systems. However, no information is provided as to who would build, maintain, and operate this private water system. Would it be under the jurisdiction of the California Public Utilities Commission? Would it be available for other property owners in the immediate area? Why amend the RDCS to allow for the extension of all urban services into city limits (versus only USA), if the Chiala Planned Development has no intention of 'burdening' the City with water and sewer services? Is the City concerned these systems will fail or is it the intent of the City to provide these services once the Residential Development Control System is modified (and approved by the voters) or sunsets?

To understand the potentially significant physical impacts of this portion of the project, more information is required.

Adequacy of Project Analysis

CEQA requires discussion of inconsistencies between the proposed project and applicable local and regional plans, the consideration of all phases of a project when evaluating its impact on the environment (CEQA Guidelines § 15125, § 15126), To meet these requirements, the EIR should:

- 1** Evaluate the proposed SRL uses for their compatibility the City's current General Plan Open Space and Conservation Element Policy 3i., 3m., 3n., 3o.
- 2** Analyze how having a private water system and septic systems for 38 new homes as part of the Chiala Planned Development would cause less of a physical impact on the environment than the extension of urban services (water, sewer)? Would water for fire suppression/protection be more reliable via this system?
- 3** Analyze the CAPP to evaluate its effectiveness in meeting its stated purposes and goals to preserve agricultural lands, especially in the Morgan Hill Sphere of Influence. The CAPP appears to have a number of conflicting policies and disparities such as the mitigation fee being based on cost of acquisition of an agricultural easement in the Gilroy area which is much cheaper than that of acquiring one in Morgan Hill.
- 4** Re-evaluate its conclusion that the private high school site is 'not inherently incompatible with agricultural land use activities' and so will not have a significant impact on the existing environment including the conversion of farmland non-agricultural uses. Thus, the DEIR concludes that no mitigation is necessary. It bases its conclusion on 'the long-standing coexistence of these land use activities around Live Oak High School, or around Sobrato High School.' (3.2-24 of the Agricultural Resources) First, the construction of a high school is inherently incompatible with agricultural land use activities. Agriculture

may remain outside of the high school parcel, but agriculture activity will cease on the property at hand. The development of a high school itself will result in the loss of more than 38 acres of viable agricultural land. Second, Andy Mariani of Andy's Orchard and Gene Guglielmo of Guglielmo Winery, whose agricultural operations are located north and south of Live Oak respectively, have requested - within the Morgan Hill 2035 General Plan update process – to be considered for inclusion in the city's UGB. They cite the surrounding urban uses as a reason for this request.

5 Re-evaluate claim that no growth inducing impacts may occur due to project. The EIR claims that because the private high school and SRL uses, which is defined as 'private commercial, retail, and/or public/quasi-public uses', are non-residential in nature, they will not facilitate population growth. Simply because the proposed high school and SRL uses are non-residential in nature does not automatically preclude the reasonable possibility that the project will either directly or indirectly encourage residential development. In fact, in October 2011, a request came before City Council for a change in zoning from Commercial to Residential for the property immediately north of the City's existing Sports Complex. One of the reasons the property owner cited (during public comment) to City Council for the request was that the private high school desired 'rooftops', i.e. residential units, in close proximity. Indeed, in the Appendix for the 2005 ULL/Greenbelt Study, the SEQ Property Owners' recommendation for the SEQ Plan included 2,000 new homes. Given that 329 acres of the SEQ Area is within the ULL and therefore assumed to eventually become urbanized, it is reasonably foreseeable that growth inducing impacts on these adjacent lands may occur and the DEIR should analyze this. (CEQA Guidelines § 15126.2 (d)).

6 Re-evaluate application of 'self-mitigation' concept that leads to the conclusion of less than significant impacts. CEQA requires that existing baseline condition be used in evaluating whether a project might cause a change in physical conditions and have a significant impact. It also requires an evaluation of whether a project would conflict with local land use plans and policies such as general plans and zoning ordinances that were approved to avoid or mitigate an environmental effect. So, the EIR cannot say that because it will amend certain (in many cases fundamental) policies or actions in the City's General Plan and Municipal Code that this will erase the conflict. This rather perplexing application of a 'self-mitigating' concept which is applied to a variety of significant impacts throughout the DEIR (i.e. beyond policy and code amendment) is contrary to CEQA. The DEIR must re-evaluate all instances of this use and use conditions as they exist at the EIR analysis was done.

Sincerely,



Marieke Ruys
Thrive! Morgan Hill



Eric Hansotte
Thrive! Morgan Hill



SANTA CLARA
COUNTY
FARM BUREAU

Rebecca Tolentino
Senior Planner, City of Morgan Hill
17575 Peak Avenue
Morgan Hill, CA 95037

RE: Citywide Agricultural Land Preservation Program Draft Environmental Impact Report

Tuesday, February 18, 2014

Dear Rebecca,

We are pleased to see that a number of our comments on the December 2011 public review draft have been incorporated into the current version of the City of Morgan Hill's Citywide Agricultural Land Preservation Program. In particular, we are encouraged by the broad agricultural uses allowed on preserved lands, the 10-acre minimum for preserved ag lands, and the City's support for farmer representation on the land trust that will hold the easements.

Agriculture in Santa Clara County, which is predominantly located in South County, generates \$250 million in on-farm value each year with thousands of jobs directly in agriculture and countless others supported by the industry. Local agriculture provides many benefits to the region including a local food source, a more diverse economy, environmental benefits, quality of life, and a pride in our local farms, ranches, and wineries.

Below are additional comments that would further strengthen Morgan Hill's Agricultural Land Preservation Program by addressing the needs of viable agriculture while protecting landowner rights, two things that are of great importance to the Farm Bureau.

Mitigation Requirements

--Measurement of affected area should be consistent between all designations, rather than using the developed footprint for properties with a General Plan land use designation of Open Space, Public Facilities, or SRL and mitigating for the entire site in other land use designations. As is the basis for using developed footprint for some land use designations, residential, commercial, and industrial projects may also choose to include a large portion of land reserved for agriculture. The City's Agricultural Land Preservation Program encourages mitigating within the project site and some project developers may reserve open spaces on the site for various other reasons. These lands that are not converted from agriculture should not be required to mitigate, regardless of their land use designation. We recommend using the developed footprint to for all land use designations to determine the affected area.

--We maintain that project proponents should be able to concurrently mitigate for the loss of agricultural lands under the Agricultural Land Preservation Plan and for the loss of habitat value under the Habitat Plan with one easement acquisition. If the land that is being converted offers agricultural values as well as habitat values then the conserved land that is acquired as mitigation can also offer both values.

--The Farm Bureau seeks to strike a balance between protecting agricultural land as an irreplaceable

resource and protecting landowner rights. In the interest of both, we maintain that only development projects that convert 10 or more acres of Agricultural Land should require mitigation. This mitigation trigger will provide consistency with Santa Clara County's Williamson Act guidelines and California Government Code 51222, which states that "agricultural land shall be presumed to be in parcels large enough to sustain their agricultural use if the land is at least 10 acres in size in the case of prime agricultural land."

-- The Santa Clara Valley Habitat Plan identified procedures for "pipeline projects" to proceed without being subject to the Habitat Plan. The City may want to consider establishing guidelines to allow current projects to proceed without being subject to the Agricultural Land Preservation Program so that such projects are not surprised with new requirements.

Preserved Lands

--We appreciate the City's clear and strong language stating that agricultural conservation easements will be acquired from willing sellers only; eminent domain will not be used to acquire lands for conservation.

--The current Agricultural Land Preservation Program includes reasonable Agricultural Uses on preserved lands. Lands protected by an easement through this program will be preserved for agriculture "into perpetuity" and flexibility and broad agricultural allowances are necessary to support viable agriculture into the unknown of perpetuity. Agriculture currently takes on many shapes, forms, and sizes and is likely to become even more diverse in the future.

--One piece of agricultural infrastructure that does not appear to have been included in Agricultural Uses is farm stands. Farm stands are an important and necessary component of many agricultural operations and should be explicitly named as an Agricultural Use under Agriculturally Related Entertainment & Commercial Uses.

--The definition of Wineries in the Agricultural Use section appears to be intended to align with the County's definition of Wineries but it is out of date. The County has recently adopted new guidelines for wineries including a new definition, which should be included here.

--Based on conversation with City staff, it is the City's intent to require Agricultural Mitigation Land to be at least 10 acres in size unless it is adjacent to existing mitigation lands. However, this is not clearly stated in the Agricultural Land Preservation Program. We appreciate the 10-acre minimum as it is necessary to ensure that preserved lands offer maximum flexibility for a variety of agricultural uses by future generations. The 10-acre minimum should be explicitly stated in the Agricultural Land Preservation Program rather than simply being mentioned in the General Plan policies for consideration. In addition, the allowance for preservation of parcels less than 10 acres in size when adjacent to existing preserved lands should be clarified. At present the only mention of this allowance is in the context of developments requiring less than 10 acres of agricultural mitigation.

--Agricultural Land that requires off-setting preservation/mitigation under the Agricultural Land Preservation Program is defined as land that is depicted on the 2010 map of the Farmland Mapping and Monitoring Program (FMMP). However, no such definition is provided for Agricultural Mitigation Land. The City should clarify that Agricultural Mitigation Land must be included on the 2010 FMMP map. In addition, the City should require that lands purchased as mitigation be of equal or greater agricultural value based on the FMMP so that the best possible agricultural lands are preserved.

--According to the House Agricultural Consultants memo on Agricultural Mitigation assumptions attached to the Agricultural Land Preservation Program, there "will not be a requirement that the land on which the easement is placed be farmed in any particular manner, or for any duration of time." The memo states this is in agreement with the California Model Agricultural Conservation Easement. Due to the uncertainty that is a trademark of the agricultural industry, we support the flexibility this gives to farmers and we request that it be explicitly included in the Agricultural Land Preservation Program itself.

Funding and Management

--Additional revenues for agricultural conservation should be contributed from other sources for this program, which benefits the whole community. Examples of other funding sources include the City of Morgan Hill, Santa Clara County Open Space Authority, conservation fees for development on non-agricultural lands, taxpayer funding, and grant opportunities.

--The Transaction Costs in the Draft Morgan Hill Agricultural Mitigation Fee Nexus Study seem insufficient to cover the costs of the necessary activities. 2% per transaction is likely insufficient to pay for costs such as due diligence, appraisal, and attorney's fees to draw up the easement associated with the transaction. Based on a review of the Santa Clara Valley Habitat Plan's cost model, the assumption for transaction costs appears to be 3.67% of the land acquisition. We recommend evaluating other comparable fees and reevaluating the transaction cost assumption.

--Annual increases in fees may be more appropriately linked to the House Price Index rather than the Consumer Price Index. As the Santa Clara Valley Habitat Plan notes, "given the link between the housing market, housing prices, and land costs, housing prices generally provide a more accurate index for land cost inflation than measures of general inflation, especially for land whose value is primarily generated by its development value." For this reason, the Habitat Plan uses the annual House Price Index (HPI) from the Federal Housing Finance Agency for the San José–Sunnyvale–Santa Clara, CA Metropolitan Statistical Area to adjust easement acquisition fees. The City should evaluate using the same index for fee adjustments.

--The Qualifying Entity that will eventually hold easements on agricultural lands is a critical component in the success of the Agricultural Land Preservation Program. As such, we maintain that the land trust(s) responsible for holding and monitoring easements on conservation lands must be well-represented by local farmers who are intimately familiar with agriculture. Grower representation will provide needed oversight from the agricultural community to ensure easement agreements on conservation lands are in compliance. A land trust with growers on the board may also be called upon to assist in governance, visioning, and acquisition decisions and will build trust within the agricultural community, making landowners more comfortable with agricultural easements into perpetuity. This has been shown to be a successful model in other areas. We suggest the Qualifying Entity have representation from the agricultural community as the board majority.

--The definition of Qualifying Entity states the "Qualifying Entity shall have appropriate representation and/or participation from the farming community". The involvement of the agricultural community should also be explicitly stated in the list of criteria to be considered in selecting the Qualifying Entity and monitoring its performance over time.

--We recommend that more than one Qualifying Entity shall be identified under the Program if there is more than one entity that meets the criteria laid out for the Qualifying Entity. If more than one land trust serves as a Qualifying Entity, landowners should have the flexibility to choose between land trusts.

The Farm Bureau is committed to the overall protection of our local agricultural industry, as well as the land, and we look forward to working with the City of Morgan Hill to maintain a viable agriculture industry for current and future generations.

Sincerely,



Jennifer Scheer,
Executive Director

February 18, 2014



City of Morgan Hill
Community Development Department
Attn: Mr. Andrew Crabtree, Planning Manager
17575 Peak Avenue
Morgan Hill, CA 95037

Subject: Draft Environmental Impact Report (EIR) for the Citywide Agriculture Preservation Program and Southeast Quadrant Land Use Plan (State Clearinghouse No. 2010102010)

Thank you for the opportunity to comment on the Draft Environmental Impact Report for the Agriculture Preservation Program and Southeast Quadrant Land Use Plan and the Draft Agricultural Lands Preservation Program. The Open Space Authority is a California special district whose jurisdiction includes over 1,000 square miles of Santa Clara County and including the cities of Milpitas, Santa Clara, San Jose, Campbell and Morgan Hill. The Authority permanently protects open space, natural areas and agricultural lands through land acquisition, conservation easements and partnerships. To date, the Open Space Authority has partnered with the County, cities, other public conservation agencies and non-profit conservation organizations to protect over 16,000 acres of open space and agricultural land and also operates a system of open space preserves for multi-use recreation.

The Open Space Authority has reviewed the DEIR and Agricultural Lands Preservation Program and offers the following comments.

The City of Morgan Hill is proposing to change its city limits, Urban Service Area, Urban Growth Boundary, and Urban Limit Line to annex 759 acres of land within a 1,290 acre area known as the Southeast Quadrant (SEQ), south of the City limits within unincorporated Santa Clara County. The Project Objectives as outlined in the DEIR (ES-4) include:

- Annexing a portion of the SEQ Area into Morgan Hill City Limits to direct future land use
- Extending the Urban Growth Boundary and Urban Service Area over a portion of the SEQ
- Clustering existing residential development rights to achieve greater open space / agricultural space
- Establishing a new Sports-Recreation-Leisure General Plan land use designation and zoning classification within the SEQ area
- Developing a new private High School to serve existing and future local demand
- Strengthening the City's historic role as an agricultural center; identifying lands within the SEQ Area viable for permanent agriculture; and developing a program that fosters permanent agriculture within the SEQ Area
- Creating an open space/agricultural greenbelt along the southern edge of the City's Sphere of Influence Boundary

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Proposed Agricultural Land Preservation Program

The area of the SEQ not annexed would remain in the unincorporated County as Exclusive Agriculture (A-20). The City identifies this 531-acre remainder area as the “**Agricultural Priority Area.**” It would be helpful to understand what criteria were developed to designate these lands as agricultural priority, other than being the area remaining after annexation of land for the proposed sports facilities and residential development uses. In April 2000, the *Santa Clara County Agricultural Conservation Easement Task Force* published a Final Report for establishing an Agricultural Conservation Easement Program in the County. In addition to identifying the Open Space Authority as the most appropriate agency to take a lead role in implementing agricultural conservation easements, the report recommended development of specific ranking and evaluation criteria for lands to be enrolled in agricultural preservation programs. In addition, using criteria from the California Farmland Conservancy Program and Natural Resources Conservation Service, the Open Space Authority developed a spatial *Farmland Conservation Assessment Tool* in 2013 to identify and prioritize key farmlands in South Santa Clara County for protection and investment. These priorities are included in the Authority’s *Santa Clara Valley Greenprint* (2014) using a combination of factors including location, size, proximity to other blocks of farmland, soil quality, water availability, cultivation history and crop production potential. The Important Farmlands within the SEQ area emerged as priorities for conservation based on these criteria.

The project would establish an *Agricultural Lands Preservation Program* to mitigate for new development within the city limits that converts agricultural land to non-agricultural uses. Applicants would be required to mitigate the loss through one of several means:

- 1) payment of an agricultural mitigation (in-lieu) fee
- 2) acquisition of other agricultural land
- 3) dedication of a permanent agricultural conservation easement on agricultural land and payment of a fee to cover ongoing management and monitoring activities.

According to the DEIR and Program, mitigation would be required at a 1:1 ratio. Areas subject to agricultural mitigation requirements will be the *developed footprint* of the properties with *Open Space, Public Facilities or SRL* designations, not the agricultural parcel as a whole. In addition, the proposed program states that in these land use designations, developed ball fields could potentially be put back into Agricultural Use in the future, thus lessening the impact on agricultural land conversion.

The DEIR should identify other tools to employ in an Agricultural Preservation Program to support the economic viability of the agricultural sector in the SEQ. These tools can include transfer of development rights into designated receiver sites within the city limits; adoption of local agricultural enterprise zones to incentivize value-added farm enterprises; long term leases of farmland; lease to purchase options; and encouragement of public conservation and private sector investment in a designated agricultural resource area.

The program includes a “stay ahead” provision wherein conservation easements would be established in advance of the development of agricultural lands. However it is unclear how this stay ahead provision would be implemented and administered.

The Program *encourages* dedication of conservation easements within the Morgan Hill Sphere of Influence, with emphasis on lands within the SEQ. However, if as stated in the DEIR, the Agricultural

Lands Preservation program is not operational at the time building permits are sought the City would require applicants to preserve agricultural land *elsewhere in Santa Clara County*.

Agricultural Preservation Fees

1. Land and Easement Value Assumptions

A 2013 market analysis and Nexus Study prepared for the City that provides the foundation for financial feasibility of the Agricultural Lands Preservation Program. This study looked at 9 sales of raw land ranging from \$50,000 - \$140,000 per acre or an average of \$95,000 per acre in Morgan Hill and \$25,500 per acre in the Gilroy area. These sales did not seem appropriate comparables for agricultural land preservation purposes. The study further assumes the cost of an easement would be 50% of the average land value or approximately \$47,500 per acre in Morgan Hill and \$12,750 per acre in the Gilroy and Hollister areas. Easements can fluctuate from 40% to 80% depending on the restrictions. The mitigation cost associated with the conservation easement findings was based on low density residential subdivision development with an average density of 5 units per acre. The Study also cites sales data for conservation easement transactions in 7 northern and central California counties averaging \$6,150 per acre but for some reason excluded critical Bay Area counties, including Sonoma, Marin and Contra Costa Counties, where some of the most active urban edge conservation easement activity in the region and state has occurred over the last 25 years.

2. In Lieu Fee Assumptions

In lieu fees proposed by the City for the purchase of agricultural conservation easements in the Agricultural Land Preservation Program are \$12,500 to \$15,000/acre. Using the City's figures, the cost of preserving 650 acres of agricultural land in the SEQ at \$47,500 per acre would be \$30,875,000 versus a total of \$8,125,000 to \$9,750,000 generated by the proposed in lieu fees. The estimates of land and conservation easement values and the low amount of in lieu fees relative to estimated market value would lead to an underfunded program which would make it difficult to implement the Agricultural Land Preservation Program in the City's SOI and in the SEQ in particular. Developers would be more inclined to pay the in-lieu fee rather than secure conservation easements around Morgan Hill.

It would be extremely difficult to implement this Agricultural Preservation Program as currently structured and the results could be inconsistent with the City's stated goals for the program for the following reasons:

- a. In Lieu Fees would be insufficient relative to the value of land and conservation easements
- b. The Program would allow for mitigation to take place elsewhere within the County
- c. Agricultural viability on remaining land within the Agricultural Priority Area (unincorporated lands) would be affected by proximity of additional new urban uses

Qualifying Entity

The DEIR references the City of Morgan Hill General Plan Open Space and Conservation Policy 1a on page 3.2-10 and in Table 3.9.3 it is stated that the City should work with the County, Open Space Authority, appropriate conservancy organizations and land trusts to preserve large open space areas, such as agricultural lands to retain the City's unique identity. However, the proposed *Agricultural Land*

Preservation Program (pg. 8) defines a *Qualifying Entity* for the purposes of accepting mitigation fees and holding easements as a “local non-profit agricultural conservation entity, a statewide non-profit agricultural conservation entity or the regional branch of a nationally recognized non-profit agricultural conservation entity.” It further states that the Qualifying Entity should also have experience holding easements in Santa Clara County and have appropriate representation and/or participation from the farming community. These criteria would clearly limit the pool of conservation easement holders, specifically public land conservation agencies such as the Open Space Authority with experience in agricultural conservation easements, who must exercise transparency and accountability to the public for managing public funds.

Mitigation of Farmland to Less Than Significant Level

The DEIR says conversion of Important Farmland would be mitigated to a less than significant level through the Agricultural Preservation Program, yet the DEIR states on page 3.2-18 that “in recognition that the Agricultural Lands Preservation Program is not yet adopted at the time of the DEIR writing, the mitigation measure requires applicants to preserve agricultural land at no less than 1:1 ratio elsewhere in Santa Clara County if the program is not operational at the time building permits are sought.” In addition, if the in-lieu fees are inadequate to support the program functionally, the mitigation measure is inadequate.

The DEIR also states that “the areas proposed for annexation would be pre-zoned for “Sports-Recreation-Leisure,” “Residential Estate,” and “Open Space,” which allows for a variety of uses including recreation, agriculture, and large-lot residential uses and that the proposed pre-zoning would reconcile any inconsistencies with the existing agricultural zoning (A-2) and would serve as a self-mitigating aspect of the project that would serve to correct this conflict” (3.2-22). It is unclear how pre-zoning to non-agricultural uses from A-2 agricultural zoning is self-mitigating.

The DEIR states that without the proposed project, the SEQ Area would continue the trend of gradual cessation of agricultural uses with rural residential home sites and that by not pursuing the residential portion of the project, a transfer of existing development rights to create more aggregated and viable agricultural areas with the SEQ would not happen. However, it is unclear that the Project would lead to a preferable situation than under current County zoning (A-2).

Clearly urban-edge agriculture and farmers face numerous challenges in Morgan Hill, Southern Santa Clara County and in the Bay Region today, including speculative land value and development pressure, conflicts with nearby residential development, and increased traffic and speeds on rural roadways. Morgan Hill has a unique opportunity to maintain and enhance the agricultural viability of the SEQ area in order to stabilize land use, preserve scenic open space and community character, and provide residents access to healthy, locally grown foods. The Open Space Authority encourages the City, County, Natural Resources Conservation Service, Resource conservation District and qualified land conservation organizations to collaborate to develop and fund a more workable agricultural land preservation program for the SEQ area and explore new concepts, partnerships and tools that can contribute to creating a more viable and vibrant local food system on the urban edge of Morgan Hill (see *The Santa Clara County Food System Assessment* by the Santa Clara County Food System Alliance, the *Coyote Valley Agricultural Feasibility Study* by Sustainable Agriculture Education and the State Coastal Conservancy; *Locally Nourished* by SPUR and the *Santa Clara Valley Greenprint* by the Open Space Authority).

The SEQ is the last large area of aggregated farmland (1,200 acres) in the Morgan Hill Sphere of Influence. Sixty percent or 771 acres of the SEQ is designated by the State of California as "Important Farmland." Santa Clara County has already lost half of its most agriculturally productive soils to development, and over half of the remaining 27,750 acres of farmland in the County could be lost over the next 30 years. It is therefore critical to protect the remaining agricultural land base of Southern Santa Clara County. Protecting the SEQ as an agricultural greenbelt can contribute to compact and efficient growth, reduced greenhouse gas emissions, community health and vitality, reduced flood risk and promising agri-tourism opportunities for residents and visitors alike.

The Open Space Authority encourages the City to pursue the *Agricultural Lands Preservation Only Alternative* and offers its assistance to the City. Thank you for the opportunity to comment on the Draft Agricultural Lands Preservation Program and the Draft Environmental Impact Report for the Southeast Quadrant Land Use Plan.

Sincerely,

A handwritten signature in black ink, appearing to read "Andrea Mackenzie", written in a cursive style.

Andrea Mackenzie
General Manager

CC: Board of Directors, Open Space Authority
Citizens Advisory Committee



**COMMITTEE FOR
GREEN FOOTHILLS**

Tuesday, February 18, 2014

City of Morgan Hill
Planning Division/Development Services Center
17575 Peak Avenue
Morgan Hill, CA 95037-4128
Attn: Rebecca Tolentino, Senior Planner

Re: Draft EIR for Citywide Agricultural Preservation Program and Southeast Quadrant Land Use Plan

Dear Rebecca,

Thank you for opportunity to comment on the draft Environmental Impact Report for the Citywide Agricultural Preservation Program and Southeast Quadrant Land Use Plan (DEIR). The Committee for Green Foothills (CGF) has submitted comments in the past on the draft Citywide Agricultural Preservation Program, the Notice of Preparation for this DEIR, and the Mitigated Negative Declaration for the Urban Limit Line and Greenbelt Study General Plan Amendment and Related Actions.

After carefully reviewing the DEIR, we have found the document to be substandard in its compliance with the requirements of CEQA. The DEIR violates CEQA by, among other deficiencies, (1) failing to adequately describe the Project, (2) failing to adequately disclose and analyze the significant environmental impacts of the Project, and (3) failing to propose and analyze feasible mitigation measures to reduce the Project's significant environmental impacts.

The 'Project' as defined is a swollen, unmanageable composite of over a dozen individual projects, each of which requires its own separate analysis under CEQA. If the City were considering undertaking any of these new policies, policy changes, and projects separately rather than in a lump, an EIR would be required for each one. However, the DEIR as written not only fails to distinguish between the impacts potentially caused by one component as opposed to another component, it fails in nearly every instance to analyze these impacts at all.

The separate components of the DEIR include:

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1. the Citywide Agriculture Preservation Program (Ag Program)
2. annexation of County lands into City limits
3. expansion of the Urban Service Area (USA)
4. expansion of the Urban Growth Boundary (UGB)
5. expansion of the Urban Limit Line (ULL)
6. creation of a brand-new Sports-Recreation-Leisure (SRL) land use designation
7. creation of a brand-new Sports-Recreation-Leisure zoning district with two subdistricts
8. amendments to the text of the General Plan and the Zoning Ordinance to establish rules and regulations for the new land use designation and zoning district
9. the Craiker Sports Retail/Restaurant project
10. the Puliafico Sports-Recreation-Leisure project
11. the Jacoby Sports-Recreation-Leisure project
12. the Chiala Planned Development project (Chiala PD)
13. the private High School project

Although four of the specific projects above (Craiker, Puliafico, Jacoby, and Chiala) are reported to be not yet at the stage of submitting a project application that may be analyzed at a project level, it is clear that sufficient information is available about the projected type of use on each parcel to analyze reasonably foreseeable impacts at a programmatic level.

The DEIR first lumps together these components into a total of only 7, by combining the annexation and expansions of the USA, UGB, and ULL into one component, by combining the new General Plan land use designation and the new zoning district into one component, and by combining the 4 projects analyzed at the programmatic level into one component. However, the DEIR does not even analyze these 7 components separately. Instead, the DEIR divides its analysis into 2 sections: programmatic impacts (all of the first 12 components above) and project-level impacts (the High School). This improper lumping together of disparate policies, General Plan and zoning code amendments, and individual projects results in a 'project' that is too amorphous, vague and unmanageable to analyze adequately.

In fact, the DEIR suffers from an astonishing lack of analysis on every level, to the point where nearly every potential environmental impact on a programmatic level is either ignored, waved aside as 'self-mitigating,' or dismissed as too speculative.

In addition, the Citywide Agricultural Preservation Program is, as its title suggests, applicable throughout the entire city of Morgan Hill, not only in the Southeast Quadrant. However, the DEIR examines no impacts anywhere outside the boundaries of the SEQ. This alone is a sufficient flaw in the DEIR to render it fatally inadequate under CEQA.

Where, as here, the environmental document fails to fully inform decision-makers, and the public, of the environmental consequences of the proposed actions, it does not satisfy the basic goals of CEQA. See CEQA § 21061. ('The purpose of an environmental impact report is to provide public agencies and the public in general with detailed information about the effect which a proposed project is likely to have on the environment; to list ways in which the significant effects of such a project might be minimized; and to indicate alternatives to such a project.') The DEIR should be revised to include a full analysis of each separate component listed above, treating the Ag Program, the USA, the UGB, the ULL, the new Sports-Recreation-Leisure designation and zoning district as separate projects as it does the project-level analysis of the High School.

As a result of the DEIR's inadequacies, the City must revise and recirculate the DEIR to provide the public a complete, comprehensible description of the project, an accurate assessment of the environmental issues at stake, and mitigation measures that fully address the Project's significant impacts.

Due to the gross inadequacy of the DEIR, CGF's comments are not comprehensive but are intended to reflect as many of the shortcomings of the CEQA analysis as time and resources allowed.

THE DEIR'S DESCRIPTION OF THE PROJECT IS INADEQUATE

While extensive detail is not necessary, CEQA mandates that an EIR describe a proposed project with sufficient detail and accuracy to permit informed decision making. See CEQA Guidelines § 15124 (describing the requirements for an EIR). As explained below, the DEIR fails to meet this basic standard.

As discussed above, the Project as proposed is extraordinarily complex, ordinarily requiring an EIR of any one of these project elements, if presented as a stand-alone. Yet the DEIR fails to provide sufficient description in many instances. For example:

Agricultural Lands Preservation Program. The Project location of the Citywide Agricultural Lands Preservation Program (Ag Program) is not defined, the physical conditions of the location are not identified, and a map identifying the boundaries and land uses of the location is not provided.

Sports-Recreation-Leisure Land Designation/Uses. There is no explanation of how the private education, commercial sports/recreation/leisure, and other uses within a portion of the SEQ Area are 'complementary' to the preservation of agricultural lands. DEIR at 2-35. Similarly, the

SRL definition includes an additional goal to support local agriculture and provide markets for 'locally produced goods.' DEIR at 2-45. How will such uses be in harmony with the preservation of agricultural lands when their use necessitates the conversion of agricultural lands and places an urban use adjacent to any remaining agricultural lands? What locally produced goods are they referring to? Where will they be produced? Are the goods in reference to local agricultural products? How will the SRL uses which have negatively impacted agricultural lands provide a market for locally produced goods? This information is necessary to determine the project's environmental impacts, including conversion of Important Farmland to non-agricultural uses, traffic impacts, greenhouse gas emissions, energy consumption and possible hazards, among other impacts.

The DEIR defines SRL 'to allow a wide range of sports-recreation-leisure themed uses that are private commercial, retail, and/or public/quasi-public at a scale that creates a destination area for both regional and local users, and offers a high-quality, attractive, health-oriented, fun destination for regional and local users in a manner that supports the city's economic development, city identity and greenbelt goals.' DEIR at 2-45. However, it does not explain why certain commercial uses currently included in the zoning code are permitted in the SEQ Area, such as gas stations, boutique hotels and County Fairgrounds, and others, such as day spas and campgrounds, are not. No explanation is given as to what lesser physical impacts these conditional uses would have on the environment that justifies their inclusion in the SRL zoning district versus others. Further, the DEIR does not explain how the consumption of agricultural land is needed for commercial uses when the City already has an adequate supply of this type of land.¹ See CEQA Guidelines §15126.2 (c) ('Irretrievable commitments of resources should be evaluated to assure that such current consumption is justified.')

Boundary Changes. The proposed boundary changes surround 329 acres of the Agriculture Priority Area (DEIR at Appendix K, Page 11) with urban boundaries, essentially creating an urban island. The Project needs to acknowledge this impact and evaluate its land use planning and growth inducing impacts, and its compatibility with the proposed objective of continued agricultural uses in this Agricultural Priority Area.

¹ Per City of Morgan Hill Community Development Department Memorandum to Planning Commission dated July 23, 2012 (<http://www.morganhill.ca.gov/DocumentCenter/View/11154>) 'Morgan Hill has more retail than is currently supported by demand as identified in the General Plan Update 'Economics White Paper.' See also Morgan Hill 2035 Existing Conditions White Paper on Economics, 1-25, http://morganhill2035.org/wp-content/uploads/2013/05/1_Economics.pdf

It is reasonably foreseeable that establishment of these boundaries, including the ULL, will ultimately lead to a conversion of farmland. In fact, it is more than reasonably foreseeable, it is quite obvious since the nature of establishing a ULL boundary is to provide an envelope for future development. DEIR 2-41. It is the clear intent and purpose of establishing the ULL to outline future development, a main purpose of the Project, and if this purpose is not even a remotely foreseeable possibility, there would be no reason to include it as the major component of this project.

Programmatic Project Applications. Of the four programmatic Project applications, the Craiker and Chiala PD projects have in the past provided the City with high level schematics of their proposed projects.² In addition, in August 2013, the City of Morgan Hill entered into a Letter of Intent (LOI) with NMSBPCSLDHB LP (i.e. Jacoby project) for the purposes of examining, planning, and evaluating that property for potential ball fields. The City also contracted with Verde Design which fully developed preliminary plans³ for the site that was presented to Council at their December 4, 2013, meeting at which time the Council voted to extend the due diligence period of the LOI by 120 days.

Although we recognize that these projects may not yet have reached the level of project (vs. programmatic) level CEQA analysis, it is clear that the City has sufficient information available about the projected type of use on each of these projects to better define and analyze reasonably foreseeable impacts at a programmatic level. See CEQA Guidelines §21159.

Much more detail is required for each of these Project elements for an adequate analysis of the environmental impacts of this complex project. In the comments CGF submitted on the Notice of Preparation (NOP) for this DEIR, we urged the City not to begin preparation of a DEIR until it

² See February 18, 2010 City of Morgan Hill Public Workshop Presentation – Overview and Land Uses <http://www.morganhill.ca.gov/DocumentCenter/Home/View/3333>

³ See December 4, 2013 City Council Staff Report for Acquisition of Ball Field Property <http://www.morganhill.ca.gov/DocumentCenter/View/11748>. 'Verde presented three optional designs for the site which are presented as Exhibit C. All three designs have the following features in common:

- Total of six fields (four fields with 300' fences suitable for softball and youth baseball and two fields with 360' fences suitable for softball, youth baseball, and teen baseball)
- Remainder parcel reserved for economic development on the north portion of the site
- Minimum of 454 parking stalls (75 stalls per field)
- Supporting features included (lights, drinking fountains, batting cages, etc.)
- Require over 23 acres of the site

had a better defined project, at which point it should have re-circulated the NOP inclusive of those specific project definitions. The unforced error of having proceeded in the absence of accurate information, but with the inclusion of proposed significant amendments to General Plan and Zoning Ordinance language, is made even more regrettable considering the General Plan Update currently taking place presents a more comprehensive and more detailed opportunity to understand the impacts of these changes. Unfortunately, the City has chosen not to include review and discussion of this Project within the Morgan Hill 2035 update, prohibiting intelligent evaluation of the potential environmental effects of the proposed Project within a more appropriate context.

THE DEIR FAILS TO ADEQUATELY DISCLOSE AND ANALYZE THE IMPACTS OF THE PROJECT

AESTHETICS, LIGHT AND GLARE

Conclusion of Less Than Significant Impact Unsubstantiated by Evidence. The DEIR completely dismisses the possibility that there could be any aesthetic impacts from a project that proposes the conversion of what is currently primarily agricultural land with a few low-lying structures, into a highly developed Sports-Recreation-Leisure district where uses ranging from a gas station, to boutique hotels, to indoor rock climbing facilities, to restaurants and retail shops, will be allowed. The DEIR claims that the new proposed uses will be 'compatible' with existing uses and thus will have no impact on scenic vistas, the visual character of the area, or sources of light and glare. However, it is not credible to argue that an area that is currently almost entirely undeveloped could be turned into an urban district with structures of 3 stories or more, without having any impact on aesthetic resources. As the DEIR recognizes, the aesthetic values of the Project area include views of the well-known visual landmark of El Toro, as well as of the Santa Cruz Mountains and Mount Hamilton Range. Yet, somehow the DEIR claims that allowing structures of 3 stories and higher throughout the Sports-Recreation-Leisure district will not have a significant impact on these vistas. Finally, the DEIR claims that the creation of the Agricultural Lands Preservation Program will act to protect the scenic and visual characteristics of the SEQ Area, even though, as stated elsewhere in these comments, the Ag Program will rather act to encourage agricultural mitigation elsewhere than in the SEQ Area. The DEIR's claims are unsubstantiated by evidence.

Scenic Vistas Would Be Significantly Impacted by the Project. CEQA requires that an EIR evaluate impacts to scenic vistas in the project area. In this case, as the DEIR recognizes, both the City of Morgan Hill and the County of Santa Clara General Plans consider the views of the

hillsides from the valley floor to be scenic characteristics of the area. In particular, El Toro, a distinctive hill dominating the views to the west of Morgan Hill, is such an iconic landmark for the area that it is incorporated into the City's seal and official logo. The DEIR states that under current conditions, views of these hillsides from the project area are largely unobstructed.

Under the proposed project, structures would be allowed of up to 3 stories (40 feet) in Subdistrict A, and there would be no maximum height limit in Subdistrict B. In fact, the high school has proposed a site plan that will include at least one structure of 55 feet. The DEIR claims that, since Subdistrict B would be near Highway 101 and there are existing 'commercial and athletic facilities' adjacent to this location, there would be 'little to no impact' on views of El Toro or the hillsides. DEIR at 3.1-12. However, since the 'athletic facility' in question consists of an outdoor swimming pool with associated low-lying structures, this is hardly an argument that new structures for which there would be no maximum height limit would have no impact on existing views. In addition, this argument only applies to Subdistrict B. Subdistrict A, which would allow structures of up to 40 feet, would extend into the center of the SEQ Area, hardly adjacent to Highway 101. As for the eastern portion of the SEQ Area (including the Chiala Planned Development), the DEIR states that adding new Sports-Recreation-Leisure uses would 'not be significantly different from a visual perspective' from the existing open farmland and rural residential uses. The DEIR cites the 35-foot height limit that would be imposed as ensuring that new development would be 'compatible' with existing uses. DEIR at 3.1-12. However, the great majority of this area is currently open farmland, not existing residential uses; and of the existing residences and structures, all are low-lying. Adding 35-foot-tall buildings would certainly impact views from this area.

The DEIR also relies on the Agricultural Lands Preservation Program to avoid any impacts to scenic vistas in the Project area, stating that this program 'would be expected to keep a large portion of the SEQ in agricultural production for the foreseeable future' (DEIR at 3.1-13). However, as stated elsewhere in these comments, the Ag Program is more likely to encourage preservation of agricultural land outside of the SEQ Area. Thus, the Ag Program cannot be expected to prevent development in the SEQ or reduce impacts to scenic vistas.

Visual Character Would Be Significantly Impacted by the Project. CEQA requires that an EIR evaluate impacts to the visual character of an area. In this case, the visual character of the SEQ Area is of undeveloped open space with an occasional rural residence or low-lying agriculture-related structures such as sheds or greenhouses. The DEIR states that there is 'a feeling of rural open space' in this area (DEIR at 3.1-1). The photos provided in the DEIR, which show flat,

grassy fields or expanses of row crops, with views of the hills in the background, demonstrate this visual character of the SEQ Area.

What the Project proposes is the wholesale conversion of this rural, open-space farmland into a highly urbanized and developed Sports-Recreation-Leisure district. As described in the DEIR, even in the less intensively-developed Subdistrict A, allowable uses would include ‘high-tech sports and recreation facilities’ such as paintball, lasertag, and arcades; indoor facilities for rock climbing, gymnastics, and martial arts; outdoor theaters; grandstands and bleachers; and many other uses. The notion that these uses would not alter the visual character of what is currently quiet, undeveloped land is ludicrous.

Again, the DEIR claims that the new uses proposed by the Project would be ‘compatible’ with the existing visual character of the area, and again, the DEIR relies on the Agricultural Lands Preservation Program to ensure that the SEQ will remain undeveloped. These arguments do not have credibility.

The DEIR even goes so far as to claim that the High School will not impact the visual character of the area because it would be contiguous to and compatible with the new proposed uses resulting from the Project. DEIR at 3.1-16. As CEQA makes clear, an EIR must evaluate a project’s impacts against the existing baseline conditions – not against another aspect of the same project or against what the conditions will be after the project is built out.⁴

Insufficient Analysis of Effects of Light and Glare of the Proposed Project. As the DEIR recognizes, the existing levels of light and glare are very low, as is to be expected considering that the SEQ Area is predominantly open fields and farmland. Under the proposed Project, the sources of light and glare would increase dramatically. Parking lots, building-mounted exterior lights, street lighting, illuminated signage, and floodlighting of outdoor sports fields and recreational areas, would all contribute to a significant increase in the amount of light and glare.

The DEIR’s analysis of these impacts is almost non-existent. The DEIR simply states, without reasoning or evidence, that the light and glare from the new proposed Project uses would be ‘similar in intensity and nature’ to the existing conditions. This is patently absurd, especially

⁴ Although the DEIR does not provide any visual simulations of the private high school, Project proponents have provided one at the bottom of their website page <http://morganhillfarmsandfields.com/interviews/> (accessed February 18, 2014).

coming directly after the DEIR's acknowledgement of the new sources of light and glare listed above.

The DEIR's discussion of the High School project illustrates the impacts that are likely to result from the Project as a whole. The High School is expected to have night lighting of the parking lots, football stadium, track/field facilities, and other areas for security purposes. The residences adjacent to the High School are considered sensitive receptors, and nighttime lighting is also a concern for the Lick Observatory on Mt. Hamilton (15 miles north of the Project site). All of these concerns are also present for the Project site as a whole.

In sum, the DEIR's analysis of the Project's potential impacts to aesthetics, light and glare is inadequate. The DEIR must be revised and recirculated for comment.

AGRICULTURAL RESOURCES

Insufficient Data to Estimate Conversion of Agricultural Lands. The DEIR does not provide the necessary information to adequately estimate the acreage of farmland that will potentially be converted to non-agricultural uses in the SEQ Area (Program Level). The DEIR claims there is a potential for approximately 120 acres of important farmland to be converted to non-agricultural uses in the SRL area. It does not include the potential acreage of important farmland that may be converted to non-agricultural uses under the Chiala Planned Development or those that will be inside the ULL. Such an approach conflicts with the requirements of CEQA. See CEQA Guidelines §15126 ('All phases of a project must be considered when evaluating its impact on the environment: planning, acquisition, development, and operation.').

In the program description, the Chiala PD proposes to have 76 acres for residential estate-sized lots (excludes existing 31 acre homesite) and 86 acres of sports-recreation-leisure in addition to the 114 acres of agricultural-related uses. DEIR at 2-55. The residential and SRL uses clearly point to uses that will cause the conversion of agricultural land to non-agricultural uses. The description of the Chiala PD needs to provide enough data to clarify its legitimate development potential in order to approximate the amount of agricultural land converted to non-agricultural uses. In addition, the lands proposed to be brought inside the ULL are intended for urban development in the long-term. Therefore the loss of these lands to development must be included in the analysis as well. Williamson Act lands should be included in these estimates as non-renewal of contracts is highly probable given the inclusion of these lands within the ULL.

The validity of the approximate acreage should be clarified using map overlays (i.e. boundary lines, parcel size) on the Project area or alternatively, provide a matrix identifying the Assessor Parcel Number of each parcel, the total acreage of the parcel, the farmland classification of the parcel, and the amount of acres per classification.

Changes to Environment Will Impact Surrounding Agricultural Lands. The DEIR claims that the proposed Project would not create land use compatibility conflicts that would result in the premature cessation of nearby agricultural land use activities. DEIR at 3.2-23, 3.2-24. The conclusion is based on 'land use changes and boundary adjustments having the effect of deterring the creation of pressures to convert agricultural land located outside of the USA to non-agricultural uses.' DEIR at 3.2-24. The DEIR fails to acknowledge that 329 acres of the Agricultural Priority Area is proposed to be brought inside (north of) the ULL. This boundary defines the ultimate limits of city urbanization beyond the 20-year timeframe of the UGB. DEIR at 2-41. It also fails to recognize that parcels with a Farmland Mapping and Monitoring Program designation of Prime Farmland – including three currently encumbered by Williamson Act contracts - are contiguous with the proposed USA boundary. These two boundary changes would immediately raise the speculative value of the lands. It would also place parcels with land designated as Prime Farmland adjacent to urban development, subjecting these lands to urban encroachment. By virtue of the City's General Plan *Policy 2c* and *Action 2.1* of the Community Development Element, these lands could be considered for future urban development. Taken together, it is fair to argue that the proposed Project would increase the probability of future urban development on the lands within the Agricultural Priority Area. So it is very reasonable to conclude that the land use changes and boundary adjustments could strongly facilitate land use compatibility conflicts resulting in the conversion of nearby agricultural lands. Therefore, the potential loss of these lands to development must be included in the analysis as well. See CEQA Guidelines §15126.2 ('Direct and indirect significant effects of the project on the environment shall be clearly identified and described, giving due consideration to both the short-term and long-term effects.'), §15358 (2) ('Indirect or secondary effects which are caused by the project and are later in time or farther removed in distance, but are still reasonably foreseeable.'), and §15384 ('Whether a fair argument can be made that the project may have a significant effect on the environment is to be determined by examining the whole record before the lead agency.')

Conflicts with Lands Encumbered by Williamson Act Contracts. Per the discussion above, there is substantial evidence to argue that Williamson Act lands will be impacted by the boundary changes. Inclusion of these lands inside the ULL and in some cases contiguous with the USA could reasonably cause the non-renewal of Williamson Act (WA) contracts on these parcels.

Indeed, one of the properties encumbered by an active WA contract is included in an area proposed for annexation. Thus all WA parcels north of the ULL should be included in estimating impacts to surrounding agricultural lands within the SEQ Area.

Furthermore, the DEIR states that should any of the WA contracts require cancellation as a prerequisite for annexation, termination via premature cancellation or protest on the part of the City would 'self-mitigate' the impact of cancelling an existing contract thus removing any conflict. Thus it concludes that the impacts would be less than significant. DEIR at 3.2-22. However, CEQA requires that impacts be determined based on the existing physical conditions in the affected area 'as they exist at the time of the notice of preparation is published, or where no notice of preparation is published, at the time environmental analysis is commenced.' See CEQA Guidelines §15125 (a) and §15126.2 (a). Premature termination of an existing WA contract for the purposes of implementing the Project is a significant effect and not a mitigation measure. See CEQA Guidelines Appendix G II (b). The DEIR must recognize the level of impact and either propose feasible mitigation or change the Project to avoid the impact. See CEQA Guidelines §15126.2 (b). The DEIR should analyze how the premature termination of any WA contract is consistent with the City's Open Space and Conservation Element *Policy 1f* and the County of Santa Clara General Plan Policy *R-RC 66*.

Conflicts with Existing Zoning for Agricultural Uses. The DEIR states that the 'proposed pre-zoning would reconcile any inconsistencies with the existing agricultural zoning for the areas proposed for annexation.' DEIR at 3.2-22. It further states that the inconsistencies with the existing designations or zoning is an element of the project itself and doesn't constitute an environmental effect. This is patently false. The CEQA requirement of evaluation of the impacts of failure to comport with local land use plans cannot be sidestepped by a mere statement that after the plan or zoning is amended to comply with the project, then the project will comply with the plan or zoning. General Plans are intended to guide land use policy and to control where various uses are located – they are not intended to be changed every time a landowner wishes to put land to some use not included in the General Plan. If it were so, General Plans would be completely useless.

The DEIR's assumption that the putative future state of the General Plan may be relied on to conclude that the project does not conflict with the actual current state of the General Plan, could be considered to be either an impermissible baseline (since it assumes that current conditions are other than what they are) or an impermissible mitigation measure (since it relies on tentative future agency action). The DEIR must evaluate the impact the change in zoning would have on the existing zoning for agricultural lands. In fact, an amendment to a General

Plan is itself an agency action requiring CEQA analysis. This highlights the fact that the impacts from the Project's proposed change in land use must be reasonably analyzed in this DEIR.

Use of LESA Model Will Impact Determination of Significant Effect of Agricultural Lands Converted to Non-Agricultural Uses. The DEIR should evaluate how the use of the Land Evaluation and Site Assessment (LESA) Model will impact the acreage of agricultural lands subject to mitigation. The LESA Model evaluates whether the conversion of farmland to non-agricultural use is considered a significant impact. The evaluation is divided into two categories. The Site Assessment category analyzes factors such as the size of the Project site, availability of water resources, the amount of surrounding farmland, and the amount of lands surrounding the Project that are protected. Should the Site Assessment category (or the Land Evaluation category) score less than 20 points, conversion of agricultural lands is found to be less than significant. The High School Site scored a Site Assessment total of 24.75; a mere 5 points less and the conversion of the more than 38 acres of Prime Farmland on that site would have been found to be less than significant under the LESA Model methodology. As agricultural lands in the SEQ Area are converted project by project to non-agricultural uses, it is likely that a substantial amount of Important Farmland converted to non-agricultural uses will fail to meet the 20 point threshold of the Site Assessment category and thus will not be subject to mitigation. So application of the LESA Model could severely impact achieving the stated goals of the Project, including those of the proposed Agricultural Lands Preservation Program. Since the LESA Model is an optional model to calculating the level of significance of converting agricultural lands to non-agricultural uses, the City should consider either an alternative methodology or modifications to the Model to ensure it can sufficiently meet its proposed Project goals.

BIOLOGICAL RESOURCES

The DEIR concludes that there is no significant impact to biological resources from the Project based on inadequate surveying. Several sensitive species have the potential to exist on or near the Project site, but the DEIR concludes based on a single survey that there are no significant potential impacts to these or other species. Adequate plant and wildlife surveys must be performed, and the DEIR must be revised and recirculated for comment.

According to the California Natural Diversity Database (CNDDB), a total of 12 special-status plant species and 4 special-status wildlife species have been observed within 5 miles of the SEQ Area. DEIR at 3.4-7. The DEIR states that a reconnaissance survey was conducted in May 2011 that did not identify the presence of any of these species on the Project site. However, a single

survey is not adequate to evaluate the possible presence of special-status species on this site. For example, the Project site contains suitable breeding habitat for California red-legged frog (CRLF) in the ponds and wetland areas; however, it is unlikely that a survey conducted in May, after CRLF breeding season is over, would identify CRLF at the breeding sites. Additional surveys must be performed to properly evaluate the potential for impacts to special-status species.

The DEIR concludes that the Project site contains suitable habitat for several special-status species, including CRLF, tiger salamander, Pacific pond turtle, northern harrier, golden eagle, merlin, white-tailed kite, burrowing owl, pallid bat, and American badger. However, the DEIR dismisses the potential of impacts to these species by claiming that 'existing land use activities within these areas are expected to experience little to no change.' The DEIR does not identify these areas; however, considering the variety of special-status species with habitat present on the Project site, the argument that this habitat must be limited to areas where land use activities will not change makes no sense. The habitat identified in the DEIR comprises various different areas, including ponds and wetlands, grasslands, trees, and even structures (utilized by bats for roosting). Therefore, it is not possible to state that special-status species habitat is confined to a particular area of the Project site. In fact, the only project analyzed at a project level (the High School) was found to contain a known owl roosting site and likely owl nesting site.

The DEIR further claims that 'it would be speculative to attempt to predict such impacts at a programmatic level.' DEIR at 3.4-25. Programmatic EIRs are not expected to evaluate potential impacts with the same level of detail as project EIRs; however, some analysis is required when a project proposes, as this one does, to radically change the intensity and type of land use over a huge area. For example, it is not hard to predict that the conversion of hundreds of acres from farmland and grassy areas to developed uses with structures and impervious surfaces will have a significant impact on the presence of foraging ground for raptors such as golden eagle and northern harrier. Similarly, an increase in impervious surfaces due to parking lots and driveways may adversely affect levels of vehicle-related pollutants and contaminants in stormwater runoff into the creek, pond and wetland habitat present on the Project site and which provides habitat for CRLF and tiger salamander. These are impacts that can be identified, even at a programmatic level.

The DEIR uses similar arguments to claim that there are no significant impacts to riparian areas or wetlands on the Project site, or that they are too speculative to analyze at the programmatic level. Again, even in the area proposed to be designated as Open Space, the proposed Project would allow Sports-Recreation-Leisure uses, including a possible culinary center, equestrian

facility and sports fields. The increase in impervious surfaces for parking lots and driveways associated with these facilities alone may have a potential impact on riparian areas and wetlands, even if no other impacts can be identified at this stage. These impacts should be evaluated in the DEIR.

LAND USE

Inconsistency with City of Morgan Hill General Plan and Municipal Zoning Code. The DEIR proposes text amendments to the General Plan and states that these amendments are ‘self-mitigating’ and resolve any inconsistencies with the General Plan. DEIR at 3.9-11 and 3.9-25. As previously pointed out in our comments on the Agricultural Resources section, the CEQA requirement of evaluation of the impacts of failure to comport with local land use plans cannot be sidestepped by a simple statement that after the General Plan is amended to comply with the project, then the project will comply with the plan. It is speculative to assume the presumed future state of the General Plan may be relied on to conclude that the Project does not conflict with the actual current state of the General Plan. This is an impermissible baseline (since it assumes that current conditions are other than what they are) and an impermissible mitigation measure (since it relies on tentative future agency action). Again, an amendment to a General Plan is itself an agency action requiring CEQA analysis.

Inconsistency with County of Santa Clara General Plan. The DEIR erroneously claims that the Project is consistent with the County of Santa Clara General Plan. The DEIR fails to list General Plan Policies:

- *R-LU 170* – a policy specific to Morgan Hill’s UGB area (‘Consider modifications to the UGB location only in conjunction with a comprehensive City General Plan land use element update, which occurs on an approximately 10 year interval, unless triggered by the established criteria, findings, or prerequisites, to ensure coordination between relevant land use planning issues and growth management considerations.’) and,
- *C-GD 12* (‘Annexation outside of Urban Service Areas shall not be permitted.’)

While the City has insisted that the Project remain outside of the scrutiny and analysis of the Morgan Hill 2035 General Plan update, *Action 3.6* of the Morgan Hill General Plan Community Development Element (at p. 25) states that the ‘[p]lanning of the Southeast Quadrant may occur as part of the next comprehensive General Plan Update.’ Thus, both General Plans indicate a need to use the General Plan update in which to review the type of boundary changes proposed in the Project. Moreover, the County’s General Plan policies were adopted for the purpose of managing urban expansion and encouraging compact and concentric urban growth. Clearly, the Project’s proposal to significantly expand the UGB outside of a General Plan update and annexation of these lands outside of the USA (DEIR at 2.-55) is inconsistency

with these land use policies and implementation of the Project would constitute an adverse environmental impact. See CEQA Guidelines Appendix G, X (b).

CUMULATIVE IMPACTS

The DEIR's cumulative impacts analysis is inadequate. Because the DEIR concludes that the proposed project will not have any significant impacts on a variety of areas, including Aesthetics, Agricultural Resources, Biological Resources, Land Use, and other areas, the DEIR proceeds to conclude that there are no cumulative impacts in these areas to which the proposed Project contributes significantly. However, as explained above, the DEIR's reasoning as to the significance of the project's impacts is flawed and based on insufficient evidence. For example, the Project as bounded by the ULL together with actions to annex and convert away from farmland the parcels within the ULL is reasonably foreseeable as a cumulative impact. From a practical viewpoint, it should be clear that landowners within the ULL will seek annexation when possible, and will loudly trumpet the fact that they are inside the ULL as an additional reason for their annexation to proceed. This cumulative impact is one among others that are foreseeable, and must be addressed.

The DEIR must be revised to provide an adequate analysis of the Project's cumulative impacts.

GROWTH-INDUCING IMPACTS

CEQA Guidelines §15126.2(d) requires that an EIR analyze "the ways in which the proposed project could foster economic or population growth, or the construction of additional housing, either directly or indirectly, in the surrounding environment." The DEIR claims that growth-inducing impacts would be less than significant because "[t]he SRL land uses are non-residential in nature and thus do not have the potential to directly influence growth (i.e. develop new dwelling units)" and because the new residential development in the Chiala PD would constitute only 38 units. DEIR at p. 6-3.

CEQA analysis of growth-inducing impacts focuses not on whether the proposed project itself is residential in nature, but on whether the project has the potential to induce economic or population growth in the surrounding environment. Here, the Project clearly has the potential to induce growth. The stated objectives of enhancing job creation and economic development, and strengthening the City's identity as an active, healthy, quality, fun, family-friendly community, clearly anticipate drawing more economic development and growth to Morgan Hill as a result of the Project. The DEIR cannot rely on current zoning or land use designations to

claim that residential growth will not be possible; courts have held that current zoning is not determinative of potential for future growth.

Furthermore, the DEIR's claim that no residential growth will occur even on Project lands in the SRL district, disregards the fact that under the proposed SRL land use designation language, one of the permitted uses in the SRL would be single-family residences. See § 18.27.020 of draft text of 'Sports-Recreation-Leisure (SRL) Theme District,' proposed Chapter 18.27 of the General Plan. In addition, the assumption that 38 new residential units (the number cited as proposed for the Chiala PD) is per se an insignificant amount of residential growth is not supported by any evidence or reasoning in the DEIR.

The DEIR further claims that expansion of the USA will have no significant growth-inducing impacts because only 'portions' of the SEQ Area already contain water and sewer infrastructure. DEIR, p. 6-4. The DEIR seems to indicate that this infrastructure is not co-extensive with the entire area to be included in the new USA; therefore, to claim that there will be no significant growth-inducing impacts from expansion of the USA is without basis in evidence.

Finally, the establishment of the ULL clearly communicates that the City anticipates eventual urbanization of lands within the ULL. This expectation of future growth contradicts the claim that there are no significant growth-inducing impacts.

CEQA ANALYSIS OF CITYWIDE AGRICULTURAL LAND PRESERVATION PROGRAM REQUIRED

CEQA analysis of the Citywide Agricultural Land Preservation Program (Ag Program) was not included in the DEIR and is required per PRC §21080 and CEQA Guidelines §15378. Since the Ag Program is proposed to be adopted as a citywide program that 'is intended to promote continued and viable agricultural activities in and around Morgan Hill through a comprehensive set of land use policies', the impacts of the policy must be analyzed as they apply to all applicable lands within the City's jurisdiction as well as the proposed expansion of this jurisdiction per the DEIR. A description of the applicable boundary, a boundary map, a map identifying the land classifications within the City of Morgan Hill's Sphere of Influence, and a matrix identifying parcels subject to the Ag Program needs to be included.

The Ag Program contains numerous components, policies, and statements that are contradictory not just amongst themselves, but with existing local and regional land use policies and plans. The following identifies just *some* of the many key issues of concern with the Ag Program as included in Appendix K.

Agriculture Priority Area. The Ag Program identifies the SEQ as being ‘of particular importance as the last major, contiguous area of agricultural land in the Morgan Hill SOI’. According to the Ag Program, the Agricultural Priority Area (Area) within the SEQ is intended to:

- identify the ‘priority location to preserve and encourage the long-term viability of agriculture and Open Agricultural Lands’ within Morgan Hill’s SOI;
- recognize ‘those lands within the Morgan Hill SOI most suitable for agricultural production and related uses’;
- provide ‘stability for ongoing agricultural operations and supports new uses necessary to support a viable local agriculture industry’;
- ‘retain in open space uses any lands that are not being actively farmed until agricultural activities resume on those lands.’

However, there is a complete lack of evidence to support that the Area chosen meets these criteria or the criteria listed in the *Eligible Mitigation Lands* section of the Ag Program. The DEIR needs to provide substantiating documentation to clarify how the Area meets these criteria, especially in light of the fact that 329 acres of the Area are proposed to be included within the ULL and are therefore ultimately intended for urbanization.

Agricultural Preservation In-lieu Fee. The purpose of this fee is to acquire Agricultural Mitigation Land to provide mitigation at a 1:1 ratio. As stated in the Ag Program, one of its main purposes is the preservation of agricultural lands within Morgan Hill’s SOI with a specific focus on land preservation in the SEQ. DEIR at Appendix K, Page 1. However, the fee is based on the cost of acquisition of a conservation easement in the Gilroy area, which is \$12,750 per acre. The cost of acquisition of a conservation easement in Morgan Hill is \$47,500 (3.72 times greater). Therefore, in order to meet the main purposes of the Ag Program, approximately four acres of qualifying agricultural land would need to be developed to purchase a one acre agricultural conservation easement within Morgan Hill’s SOI. The Technical Memorandum on the Draft Morgan Hill Agricultural Mitigation Fee Nexus Study points out that due to the proposed fee ‘mitigation may not take place in the Morgan Hill target area’. The inescapable conclusion is that the proposed mitigation fee is far more likely to result in loss of agricultural land in Morgan Hill than in its preservation.

Thus the proposed fee conflicts with the proposed 1:1 mitigation ratio and the stated purpose of the Ag Program. DEIR at Appendix K, Page 1. Although, the Ag Program purports that 'funding from multiple sources' will help augment the funds available for acquisition of mitigation lands, it does not clarify what additional funding can reasonably be expected and from which sources.

Per CEQA Guidelines §15131, the DEIR should analyze the economic effects of the in-lieu fee on conversion of agricultural land within Morgan Hill city limits and the impact on the City's objective – and community's desire - to preserve land within Morgan Hill's SOI.

Qualifying Entity. The DEIR should substantiate why the City favors a 'nonprofit public benefit corporation' versus an established local government/public entity such as the Santa Clara Open Space Authority (OSA) which has a well-established public record, transparent governing process, and agricultural representation on its Citizens Advisory Committee. Since the City already participates with the OSA regarding acquisition and development of eligible open space projects and therefore should be very familiar with their qualifications and eligibility as a qualifying entity, this question needs to be addressed.

Measurement of Affected Area. The Ag Program calls for projects with a land use designation of Open Space, Public Facilities, or SRL to be subject to mitigation based on their developed footprint only, per the Santa Clara Valley HCP/NCCP. DEIR at Appendix K, Page 10. A nexus between the mitigation measure for endangered species habitat and agricultural lands within the City of Morgan Hill's SOI should be established to substantiate this measure.

The Ag Program claims that lands converted to uses allowed under these designations, such as the proposed private high school or sports retail/restaurant facility, could reasonably be expected to return to agricultural uses. DEIR at Appendix K, Page 10. It is extremely speculative to conclude that a private landowner or the City would pay to revert built-up, urban lands back to agricultural uses once converted. It is also speculative to assume that 10 acres of aggregated lands for 'open space/open fields' under these designations is comparatively more desirable for some speculative future agricultural operations than the same aggregated 'open space' designated areas of commercial, residential, or industrial projects.

Per the Ag Program, one of the criteria disqualifying land to serve as mitigation lands (see *Ineligible Mitigation Lands*) is property 'subject to conditions that practicably prevent utilizing the property for a viable Agricultural Use.' Pursuant to this, the undeveloped portion of a parcel/project site that has been rezoned for non-agricultural uses, should be subject in its entirety to mitigation as it could not serve as mitigation lands.

Simply put, agricultural lands that have undergone a change to their existing physical condition are for all intents and purposes taken out of agricultural use, which constitutes a significant impact and must be mitigated regardless of any unsubstantiated claim that they may revert to their previous use at some unknown point in the future.

Draft Agricultural Preservation General Plan Policies. The DEIR needs to analyze how these policies will achieve the stated purpose of the Ag Program, not conflict with current General Plan policies, and whether the SEQ Land Use Plan conflicts with the current and proposed policies. For instance, the DEIR should analyze how the SEQ Land Use Plan would not conflict with General Plan Policy 3i, 3m, and 3o in the Open Space and Conservation Element. Or, how termination of a Williamson Act contract because of its inclusion in the UGB encourages its contractual protection. Or, how abutting the USA and intensive urban land uses next to parcels encumbered by the Williamson Act encourages their contractual protection. Or, how abutting three sides of prime farmland in the Ag Priority Area with at least one city boundary line avoids the creation of small or isolated areas for Agricultural Mitigation Lands. Or, what would be the proposed language to amend the existing General Plan Policy 2o in the Open Space and Conservation Element to be consistent with the provisions of the Ag Program? What would be the impacts of this change?

The Ag Program should clarify what criteria will be used to determine whether Planned Development Zoning and/or a Development Agreement will 'result in equal or greater agricultural benefit than would result from standard mitigation requirements'.

CONCLUSION

As previously stated, the DEIR's description of the project, its impacts, and mitigation measures are wholly inadequate under CEQA. The comments we have provided here are not exhaustive in any fashion as furnishing the City with comprehensive comments on the substandard analysis contained in this DEIR would require a greater effort than our time and resources allow by the comment deadline.

In conclusion, the DEIR should be revised to include sufficient data and analysis that meet CEQA requirements and recirculated for comment.

Thank you for the opportunity to comment.

Sincerely,

A handwritten signature in blue ink, appearing to read "Julie Hutcheson". The signature is stylized with a large, looped "J" and "H".

Julie Hutcheson
Environmental Advocate



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February 18, 2014

VIA E-MAIL (Rebecca.Tolentino@morganhill.ca.gov)

Ms. Rebecca Tolentino, Senior Planner
Development Services Center
17575 Peak Avenue
Morgan Hill, CA 95037

RE: Comments on Citywide Agriculture Preservation Program and Southeast
Quadrant Land Use Plan Draft Environmental Impact Report (SCH#
2010102010)

Dear Ms. Tolentino:

Best Best and Krieger LLP, as counsel for the Santa Clara County Local Agency Formation Commission ("LAFCO"), thanks the City of Morgan Hill ("City") for the opportunity to review and provide comment on the City's Draft Environmental Impact Report ("EIR") for the Citywide Agriculture Preservation Program and Southeast Quadrant Land Use Plan ("Project").

According to the EIR, the Project consists of five program-level components—collectively referred to as the Southeast Quadrant ("SEQ") Project—and one project-level component—the South County Catholic High School. The five program-level components include (1) the establishment of the Agricultural Lands Preservation Program, (2) adjustments to the City limits, urban service area ("USA"), urban growth boundary ("UGB"), and urban limit line ("ULL") (collectively, "boundary adjustments"), (3) establishment of a new Sports-Recreation-leisure ("SRL") land use designation in the City's General Plan and zoning district in the City's Zoning Code, (4) General Plan amendments and Zoning Code amendments for the new SEQ area, and (5) four separate "programmatic" project applications.

Many of the flaws in the EIR's analysis are so broad—including flaws in the Project Description and the improper segmentation of the Project—as to infect nearly every aspect of the environmental review contained therein. However, although the comments contained in this letter may only scratch the surface, it is LAFCO's hope that these comments will lead the City to fully and sufficiently analyze the environmental impacts of the Project as a whole.

As the Project would require approvals from LAFCO for the boundary adjustments, LAFCO is a responsible agency for the Project under State CEQA Guidelines (Title 14 Cal. Code. Regs.) section 15096. The comments contained herein are provided pursuant to State CEQA Guidelines section 15096, subdivisions (d) and (g), on behalf of LAFCO. As required,



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the following comments pertain to those Project activities which are within LAFCO's areas of expertise and which are subject to LAFCO's approval authority. (*Ibid.*)

The EIR Segments the Environmental Analysis

The analysis separately discusses the impacts from the SEQ Area and the proposed high school. This segmenting of the analysis may downplay impacts resulting from development of the Project as a whole, inclusive of the high school (i.e. it inaccurately describes total impacts in SEQ Area). A specific example of this, although it is an issue throughout the entirety of the EIR's analysis, is the analysis of impacts to police services. (EIR at 3.12-22-23.) In this analysis, the high school is stated as having a potentially significant impact, and yet the SEQ Area is stated as separately having a less than significant impact. This evidences how segmentation can incorrectly minimize impacts that would otherwise be considered potentially significant. This type of analysis violates CEQA. (State CEQA Guidelines, §§ 15378, 15003(h); *City of Santee v. County of San Diego* (1989) 214 Cal.App.3d 1438, 1450; *Tuolumne County Citizens for Resp. Growth, Inc. v. City of Sonoma* (2007) 155 Cal.App.4th 1214, 1229.)

The EIR also provides that "the City has begun the process to create a new General Plan for growth through 2035. The process will involve updating the City's utility master plans and identifying infrastructure needed to serve future growth areas. The SEQ Area will be included in these studies and will contribute to the buildout of the necessary infrastructure as a condition of development and through payment of development impact fees." First, by relying on environmental analysis for the 2035 General Plan which has not yet occurred, this improperly defers environmental analysis of the infrastructure improvements for the SEQ Area and the potential development within the Area. The potential infrastructure needs for the Project must be analyzed in this EIR. Second, if the City is preparing an update to its General Plan at this time, the SEQ Area should be included in the 2035 General Plan Update. Although a Notice of Preparation for the General Plan Update has not yet been issued, the fact that the City is in the process of both amending the General Plan for this Project, and also considering other amendments to the General Plan for future planning through 2035 suggests that analysis of the necessary amendments for implementation of Projects over this 20-year horizon, including the Project here, is being improperly and unnecessarily segmented into two projects.

Analysis of Cumulative Impacts

Because the analysis of the Project is improperly segmented, thereby minimizing its environmental effects, the analysis of cumulative impacts cannot be accurate. A "Cumulative Impact" is that when, considered with other effects, compounds to have a significant effect on the environment. (See State CEQA Guidelines, § 15355.) Unless the Project's environmental impacts are accurately evaluated and disclosed, its contribution to a potentially significant cumulative effect also cannot be accurately evaluated. Thus, the EIR's analysis of cumulative impacts is flawed. Should revisions to the analysis disclose new significant individual or



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cumulative impacts, recirculation of the Draft EIR would be required. (See State CEQA Guidelines, § 15088.5.)

Project Description

The Boundary Changes Are Unclear and Conflict with LAFCO Policies

The Project Description is confusing in how it discusses and delineates the various components of the proposed SEQ Area. The Project Description first states that the SEQ Area includes approximately 1,290 acres (EIR at 2-1), and yet later states that only 759 acres is proposed for annexation into the City limits (EIR at 2-41). Some of the area to be annexed is also that which is to be included in the City's UGB and ULL, but not its USA. (EIR at 2-10.) The EIR should explain the purpose of these differing boundaries. In addition to the confusion as to the boundary changes, the Project Description should also make clear how many acres would be subject to the Sports-Recreation-Leisure General Plan and Zoning amendments, the General Plan amendments and "prezoning" of land in the SEQ Area, and the manner in which these two sets of amendments are different and whether there is any overlap within the SEQ Area.

If the entirety of the area proposed for annexation is not proposed for inclusion in the expanded USA, this Project would be in conflict with LAFCO's policies for approving city limit changes that go beyond a USA. It is LAFCO's policy (Policy B.1 for Annexations or Reorganizations of Cities and Special Districts) that such proposals be approved only if the portion of the city not located within its USA is to be placed in permanent protection as open space or for other public lands. Here, the area of the City not within the USA (Chiala Development) would be residential and is intended to be served by septic systems and a private water company.

As to LAFCO Policy Annexation/Reorganization B.5 (see EIR at 3.9-30), the Chiala Planned Development would not be served by City services, and would require water from a private company and the use of septic systems. Further, the EIR states that there is "limited opportunity to extend existing storm drain facilities in the northern portion of the USA expansion." (EIR at 3.14-45.) These facts demonstrate that, contrary to the EIR's conclusions, the Project would "create or result in any areas that are difficult to serve," and therefore the consistency determination for this policy is unsupported.

The City also misinterprets LAFCO Policy 6. Under LAFCO policies, the preferred option is to discourage USA expansions that would impact agricultural lands, keeping those lands in agricultural use. Here, the EIR does not demonstrate that the annexation of these lands is necessary and has not provided the status of the City's vacant and underutilized lands inventory. Further, to the extent it is assumed the Project would preserve agricultural lands, as stated above regarding the Project Description and Agricultural Impacts, the Project appears to



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propose more intense development on these lands. Therefore, the Project is inconsistent with this LAFCO policy as well.

Lastly, the EIR does not even evaluate the Project's consistency with LAFCO's Urban Service Area Policies 5 and 7, which are directly relevant to this Project. Policy 5 provides that "[w]hen a city with a substantial supply of vacant land within its Urban Service Area applies for an Urban Service Area expansion, LAFCO will require an explanation of why the expansion is necessary, why infill development is not undertaken first, and how an orderly, efficient growth pattern, consistent with LAFCO mandates, will be maintained." Nowhere in the EIR has the City explained why this Project cannot be developed on land already within the City's limits. With respect to Policy 7, and as discussed in this Letter below, contrary to the conclusions in the EIR, the nature of the Project demonstrates that it would encourage the conversion of agricultural land to non-agricultural uses resulting in an adverse impact to agricultural resources. This directly conflicts with Policy 7, a fact which the EIR ignores.

If after the City conducts additional analysis to assess the Project's compliance with these policies a new significant impact is disclosed, recirculation of the Draft EIR would be required. (See State CEQA Guidelines, § 15088.5.)

The EIR Defers Environmental Analysis By Conducting Only Programmatic Analysis of Project-Level Proposals

Next, the EIR states that it contains programmatic analysis of project-level applications. (EIR at 2-52.) State CEQA Guidelines section 15168 provides that a program EIR is appropriate where "a series of actions . . . can be characterized as one large project and are related either: (1) Geographically; (2) As logical parts in the chain of contemplated actions; (3) In connection with issuance of rules, regulations, plans, or other general criteria to govern the conduct of a continuing program, or (4) As individual activities carried out under the same authorizing statutory or regulatory authority and having generally similar environmental effects which can be mitigated in similar ways."

Although the four applications are related geographically, as shown in Exhibit 2-12, and are being evaluated in connection with the General Plan amendment goals and criteria as outlined in the EIR, evaluation of several projects within a program EIR is intended to provide "an occasion for a more exhaustive consideration of effects" than would otherwise be considered in individual project-level environmental review. (State CEQA Guidelines, § 15168(b).) Here, the EIR provides that the four project applications are reviewed programmatically because "detailed land use proposals" have not yet been submitted. (See EIR at 2-52.) However, this is inconsistent with specific details actually provided in the EIR when describing these applications. For example, the "Craiker Sports Retail/Restaurant Uses" application provides that it would consist of 40,000 square feet of sports retail and a 3,000 square-foot sports-themed restaurant on four acres. As a result, the EIR defers more detailed analysis under the guise of a



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program EIR despite the apparent ability to conduct a more thorough and detailed, project-level review of these applications. This is a violation of CEQA.

Likewise, the EIR discloses that the Chiala Planned Development would add up to 38 new residences on 107 acres, sports-recreation-leisure uses on 86 acres, and agricultural uses on 114 acres. (EIR at 2-55.) The EIR even discloses that the development would be served by a private water company and would use septic systems. Also, as part of the Project, the Zoning Amendments are designed to facilitate the planned development on this site. An analysis of the impacts of future actions should be undertaken when the future actions are sufficiently well-defined that it is feasible to evaluate their potential impacts. (See *Env't'l Protection Info. Ctr. v. Dept. of Forestry & Fire Prot.* (2008) 44 Cal.4th 459, 503.) The level of detail in the application demonstrates that the analysis of this development at a programmatic level is insufficient and improperly defers the analysis of the specific impacts that would result.

This is not an instance where a future development will implement the program identified in the EIR, and therefore programmatic review is appropriate; rather, here, the program (the General Plan and Zoning amendments) is designed to implement the future development. Project-level analysis of the projects described in the four applications and the Chiala Planned Development is warranted.

The Proposed Development Is Inconsistent with the Project's Objectives to Preserve Agricultural Lands

Several components of the Project are inconsistent with its stated objectives. Four of the ten objectives stated for the Project concern the preservation and/or enhancement of agricultural lands. (See EIR at 2-26-35.) Yet the Project consists of a General Plan amendment that would permit "private commercial, retail, and/or public/quasi-public, at a scale that creates a destination area for both regional and local users." (EIR at 2-45.) The SRL zone would likewise permit "gas stations, restaurants, motels/hotels, and grandstands/stadiums." (EIR at 2-46.) The four project applications are consistent with these land designations and zoning, and would develop retail, restaurants, indoor sports facilities, and other such non-agricultural uses. (See EIR 2-52, 55.) However, none of these proposed uses is consistent with the majority of the stated Project objectives as not one of them would "foster permanent agriculture" or "[s]trengthen the City's historic role as an agricultural center." Even more, the Zoning amendments are characterized in the EIR as "urban zoning designations," further undercutting the stated Project objectives. (See EIR 3.9-23.)

This inconsistency is also highlighted by the fact that the proposed "Agricultural Priority Area," as well as existing lands under Williamson Act contracts, would be inside of the proposed ULL adjustment, suggesting that urban development may occur on lands which should be set aside for conservation (or which would require cancellation of Williamson Act contracts). (See EIR at 2-41, Exh. 2-10.) Moreover, as shown in Figure 2-9 of the EIR, the proposed Agricultural



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Preserve Area would be placed in the middle of planned development within the SEQ Area. This, along with the Project objectives and the inclusion of the Agricultural Preserve Area within the ULL, strongly suggests that the purpose of the Agricultural Preserve Area may be undermined by other future developments in the Area.

The Project Would Create a Conflict Between the General Plan and Zoning Code

For the Chiala Planned Development, the EIR states that this area would be zoned Open Space, with a Planned Development overlay, but would be designated as only Open Space by the General Plan. (EIR at 2-55.) Zoning ordinances must be consistent with an applicable general plan. (Gov. Code, § 65860(a).) A zoning ordinance is inconsistent with a general plan if it would authorize land uses that are incompatible with the objectives, policies, general land uses, or programs specified in the general plan. (*Ibid.*) As proposed in the EIR, the Zoning amendment for the Chiala Planned Development would be inconsistent with the General Plan designation for the site, which the EIR states will not be likewise amended. (EIR 2-55.) A zoning ordinance that is inconsistent with a general plan at the time of enactment is “void *ab initio*,” meaning invalid when passed. (See *Leshar Communications, Inc. v. City of Walnut Creek* (1990) 52 Cal.3d 531, 541.) Therefore, to the extent the City asserts that the developer is expected to seek a General Plan amendment once the project proposal is finalized, this would not prevent the proposed zoning for the site from being void. This defect in the EIR’s analysis is also present within the Land Use and Cumulative Effects analysis concerning Land Use impacts. (EIR at 3.9-10, 4-10.)

Agricultural Resources

Analysis of Impacts to Important Farmland Is Deficient

Although the EIR includes the LAFCO’s definition of “prime agricultural land” (EIR at 3.2-3-4), it does not evaluate impacts to agricultural land in light of LAFCO’s broader definition. This analysis is required for the LAFCO to review the boundary change applications, and proposed mitigation should address impacts to lands falling within the LAFCO’s definition.

Also, the analysis states that a minimum of 120 acres would be converted to non-agricultural uses for the SEQ Area. However, this figure does not include the potential conversion occurring for the Chiala Development Plan (307 additional acres). For purposes of analyzing and mitigating impacts to agricultural lands, the analysis should utilize a conservative, worst-case analysis to ensure that all potential impacts stemming from development under the SEQ are encompassed within the EIR’s analysis. To evaluate the boundary changes, LAFCO policies provide that impacts to agricultural land should be mitigated on a 1:1 basis. If all acres potentially converted (under the worst-case scenario) are included in the analysis, then this goal cannot be met with the remaining land available within the SEQ Area.



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Moreover, in its consideration of proposals, LAFCO policies require the development of existing vacant lands within City limits prior to conversion of additional agricultural lands. Likewise, LAFCO's USA Amendment Policies require an explanation of why the inclusion of agricultural lands is necessary and how such losses will be mitigated. The EIR contains no such explanation and, as stated above, does not demonstrate how the total potential loss of agricultural land will be mitigated. These deficiencies further render the Project inconsistent with Open Space and Conservation Policy 3q of the City's General Plan, which requires development to "[s]upport policies of the [LAFCO] which would guide urban development away from those agricultural areas with the greatest potential for long-term economic viability."

The Mitigation Measures For Farmland Impacts Are Inadequate

In light of the worst-case conversion of agricultural lands to non-agricultural uses under the Project *as a whole* (465.63 acres), only 242.03 acres of important farmland would remain in the SEQ area, which includes the Agricultural Lands Preservation Program land. (See EIR at 3.2-17, 2-37 [Figure 2-9].) Therefore, unless other lands are identified within the City's sphere of influence, mitigation at a 1:1 ratio would not be possible. In such a case, the conclusion that impacts would be mitigated to less than significant is not supported. In the event additional analysis conducted to address this issue discloses a significant and unavoidable impact with respect to farmland, recirculation of the Draft EIR would be required. (See State CEQA Guidelines, § 15088.5.)

Mitigation Measures 1a and 1b provide that Project applicants will either preserve agricultural land, or pay fees. (EIR at 3.2-20.) On page 3.2-18 of the EIR, the analysis explains that, for purposes of mitigating agricultural impacts, the City may use existing "Open Space Funds." However, the EIR does not state the amount of funds that are available and so does not support the contention that impacts to agricultural lands will be mitigated to a less than significant level. Further, this same discussion provides that the Agricultural Lands Preservation Program contains "Stay Ahead" provisions, but does not explain exactly what these provisions are or how they would be implemented. It is also unclear to what extent these provisions are intended to supplement applicant-initiated mitigation; and it is unclear whether the applicants for the projects in the SEQ Area and/or the City would have sufficient funds available with which to purchase necessary mitigation lands. The uncertainty of this mitigation and the ability to mitigate lands at a 1:1 ratio renders it infeasible. (State CEQA Guidelines, § 15364.)

Agricultural Lands Preservation Program (Appendix K)

Under the proposed program, a public agency could not be a qualifying conservation entity. There are several benefits associated with using a public agency for this type of activity, such as transparency and accountability requirements, financial stability, a publicly-elected board, better access to certain government grants or funding, and other benefits. It is unclear why this option was eliminated. Also, the City has not indicated that there is an existing entity



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that it believes could fulfill the role of the qualifying entity. The ability to identify a qualifying entity is further complicated by the seemingly unnecessary requirement that the entity have farmers on its governing board. While knowledge of farming is important, there are many ways that this knowledge can be addressed, including special technical committees, staff, advisors, or partnerships with farm organizations. Without more details and flexibility, the success of this aspect of the Program, and the mitigation described therein, is uncertain and infeasible. (State CEQA Guidelines, § 15364; see *Kenneth Mebane Ranches v. Superior Court* (1992) 10 Cal.App.4th 276, 291.)

Conflicts with Williamson Act Contracts Are Not Analyzed

The EIR (at 3.2-22, and also for Cumulative Effects at 4-4) provides that cancellation or protest of the ten Williamson Act contracts in the SEQ Area is “self-mitigating.” This is incorrect. Where a project would require the termination of a Williamson Act contract in any way—cancellation or protest—it conflicts with an existing Williamson Act contract and, thus, a potentially significant environmental impact may result. To argue that there would be no conflict because the contract would be cancelled is circular and defeats the purpose of the threshold and the analysis required by CEQA.

The EIR is also incorrect that the only two options are cancellation or protest. In the event that neither of these occurs, the City would succeed to the rights, duties and powers of the County under the existing contract. Regardless, the conclusion that no significant impacts would occur because the contracts could be cancelled or protested is grossly insufficient. Further, public agency cancellations are discretionary agency actions that may, themselves, be subject to CEQA under Public Resources Code sections 21065 and 21080, a fact which the EIR declines to mention or analyze.

The Project May Result In the Conversion of Lands to Non-Agricultural Uses

As stated above concerning the Project Description, the proposed Agricultural Priority Area would be inside of the proposed ULL adjustment, suggesting that urban development may occur on lands which should be set aside for conservation. (See EIR at 2-41, Exh. 2-10.) Also, as shown in Figure 2-9 of the EIR, the proposed Agricultural Priority Area would be placed in the middle of planned development within the SEQ Area. The EIR (at 3.2-24) states that the inclusion of the Agricultural Priority Area would deter the conversion of lands to non-agricultural uses. However, as stated, the circumstances surrounding the Agricultural Priority Area suggest that it would not be much of a deterrent. It is also unclear how the inclusion of lands within the City limits but outside of its USA would deter development on agricultural lands.



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The potential conversion of agricultural lands is also inconsistent with the findings contained in the Agricultural Lands Preservation Program, attached as Appendix K to the EIR. As stated therein, “[t]he SEQ of the City is of particular importance as the last major, contiguous area of agricultural land in the Morgan Hill SOI and due to its potential as a permanent ‘greenbelt’ between Morgan Hill and the neighboring rural residential development of San Martin.” (App. K at 4.)

For these same reasons, the Cumulative Effects analysis, which concludes without any support that “neither the SEQ programmatic uses nor the high school would create environmental pressures to prematurely convert neighboring agricultural uses to non-agricultural uses because of the Agricultural Lands Preservation Program,” is defective. (See EIR at 4-7; *Vineyard Area Citizens for Responsible Growth v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 435 [conclusions reviewed for substantial evidence].)

Air Quality/Greenhouse Gas Emissions

LAFCO’s policies promote the preservation of agricultural lands, encourage efficient delivery of services and also promote compact urban growth to prevent urban sprawl. Through such orderly development, LAFCO policies seek to reduce total vehicle miles traveled, among other concerns. In doing so, these policies strive to reduce greenhouse gas emissions that would result from poorly planned, sprawling development.

The conclusions regarding the significance of greenhouse gas emissions from the Project are inconsistent with the quantitative analysis conducted for the Project and contained within the EIR. Although the EIR correctly states the threshold for Greenhouse Gas emissions established under BAAQMD’s CEQA Guidelines, the EIR incorrectly states the emissions per service population based on these thresholds to be 3.16. (See EIR at 3.3-65, Table 3.3-14.) However, calculations show the emissions per service population to actually equal 4.64. Under this calculation, the greenhouse gas emissions exceed the BAAQMD thresholds. Thus, this impact would be considered significant, not less than significant as stated in the EIR. (See EIR at 3.3-65.) Therefore, the correction of the error in the greenhouse gas emissions calculations would disclose a new significant impact, and the City is required to recirculate the Draft EIR. (See State CEQA Guidelines, § 15088.5.)

Land Use

The Project Is Not Consistent with the General Plan Policies and Goals

As stated above, the Project Description for the Chiala Planned Development states that this area would be zoned Open Space, with a Planned Development overlay, but would be designated as only Open Space by the General Plan. (EIR at 2-55.) Although the Land Use analysis does not acknowledge this fact (see EIR at 3.9-10), this renders the conclusion that the



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Project would not result in any conflicts with the General Plan inaccurate; and for the reasons stated in the discussion of the Project Description concerns, above, due to this conflict with the General Plan designation, the Zoning amendment for this development is void.

As demonstrated with regard to the deficiencies in the Agricultural Resources analysis, the Project as a whole could convert over 400 acres of agricultural lands to non-agricultural uses and would result in the cancellation of Williamson Act contracts. In light of the uses which would be permitted under the proposed Project, the findings that the Project would be consistent with Policy 2a, Goal 5 and Policy 5b of the General Plan concerning agricultural preservation are unsupported. (See EIR at 3.9-13, 23.)

The proposed amendment to General Plan Policy 2c (see EIR at 3.9-12) suggests that the City may develop lands with urban uses that are not within its USA or UGB so long as the land is in the City's limits. As stated above, this would be inconsistent with LAFCO's policies. This would permit the City to develop lands to which it has not committed to providing services, resulting in potential health and safety concerns. It is also unclear what this measure is intended to "self-mitigate." The amendment would conflict existing policies and could result in additional impacts that are not analyzed in the EIR. The assertion that the amendment is "self-mitigating" is devoid of supporting environmental analysis.

Policy C-GD-3 (EIR at 3.9-19) provides that the USA should generally include only urban uses, and yet the City seeks to expand the USA to encompass uses which it claims will preserve agricultural uses. The fact that the City is seeking to expand the USA contradicts its assertions. And if the City is not planning to develop urban uses on the land, then it need not be included in an expanded USA. Otherwise, the Project is inconsistent with this policy.

Concerning Policy C-GD-8, the EIR claims that "[n]o other areas in the existing Morgan Hill city limits have the attributes of the SEQ area need for the proposed SRL uses." However, this is a conclusory assertion, unsupported by evidence referenced in the EIR.

In determining that the Project would be consistent with Policy SC 1.10, the EIR states that the eastern portion of the SEQ Area would be annexed, but proposed development would not be urban. (See EIR at 3.9-22.) However, the Project would prezone this area with an "urban zoning designation, including SRL, Open Space and Residential Estate (100,000)." (See EIR at 3.9-23 under "Zoning Districts.") It is therefore uncertain whether urban development is allowed or not allowed for this area. It is also unclear how the City is defining "urban development" for this Project, and as stated throughout, the analysis suggests that more intense uses may be permitted on the Project site than are analyzed and disclosed in the EIR.



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Population and Housing

The population growth analysis should include a discussion of the Project's impacts as determined by the Morgan Hill Residential Development Control System and indicate whether the housing allocations have been made already. (EIR at 3.11-11.) The 38 residences of the Chiala Planned Development alone constitute approximately 15% of the annual allotment. The EIR should confirm that the Project has been accounted for in the allotment.

More importantly, the analysis also does not disclose the number of new residences expected to be generated by the Project as a whole, and thus there is no analysis of the Project's impacts with respect to ABAG's or the City's General Plan projections. The EIR provides that the Project would designate 76 acres as "Residential Estate," with only 9 acres zoned "Residential Estate." (See EIR at 4-11.) Not only does the General Plan designation anticipate that the entirety of the 76 acres will, at some point, be developed with residential uses, but this acreage is wholly separate from the Chiala Planned Development, which the Project specifically anticipates will contain 38 residences. The EIR should include analysis of impacts resulting from the maximum potential residential development under the Project in order to complete an analysis of the Project *as a whole*. (State CEQA Guidelines, § 15378(a); *Orinda Assn. v. Bd. of Supervisors* (1986) 182 Cal.App.3d 1145, 1171.) This is not speculative as the proposed General Plan designations would permit residences consisting of a specific lot size. The EIR should use this information to predict the maximum potential development, and analyze that as the Project.

These deficiencies in the EIR's analysis likewise render the Cumulative Effects analysis for Population and Housing defective because the Project is not fully analyzed and, thus, its contribution to cumulative effects cannot be accurate.

Public Services and Recreation

The Analysis of Impacts to Public Services Is Insufficient Under CEQA

County Growth and Development Policy C-GD 8(b) (see EIR at 3.12-12) provides that expansion of USA boundaries shall not be approved unless "the existing supply of land within the city's USA accommodates no more than five years of planned growth." The EIR should disclose whether the land currently within the City's USA will accommodate no more than 5 more years of planned growth. If this is not the case, then the Project is inconsistent with LAFCO and County General Plan policies.

The analysis of impacts to services assumes that impacts would be less than significant if the distance to the nearest service facility (i.e. fire station) would be less than or equal to the current distance. (EIR at 3.12-20-21.) However, service population should also be taken into account by projecting an approximate number of employees and/or residents that would be present in the SEQ Area as a result of the planned developments (4 project development



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applications *and* the high school) because, even if a facility is nearby, additional uses may place a strain on existing services by increasing demand. This could result in the need for new facilities and should be analyzed in the EIR.

As provided above as an example of improper segmentation of environmental analysis, in the analysis of police services (EIR at 3.12-22-23), the high school is stated as having a potentially significant impact, and yet the SEQ Area alone is stated as having a less than significant impact. This segmentation improperly minimizes impacts that could otherwise be considered potentially significant for the Project as a whole. This type of analysis violates CEQA. (State CEQA Guidelines, §§ 15378, 15003(h); *City of Santee v. County of San Diego*, *supra*, 214 Cal.App.3d at 1450.) Further, this analysis undermines the conclusion that cumulative impacts to public services would be less than significant. (See EIR at 4-12.)

Utility Systems

Mitigation Measure US-3a is a product of the Project's defects concerning the USA, and likewise conflicts with LAFCO policies, as described above, because the Project is proposing to develop urban land uses within its City limits to which it would not provide services. Further, the Measure provides no means of determining whether retention systems unconnected to the City's drainage system are feasible and, therefore, no means of determining whether connection to City systems is necessary. And even if the Measure did contain this information, the EIR is completely lacking in analysis of impacts resulting from the construction of the retention basins for the SEQ (air quality/greenhouse gases, impacts to City systems if site-specific retention systems are infeasible).

Growth-Inducing Impacts

As stated in the EIR, growth-inducing impacts may occur where a project would remove obstacles to population growth, or lead to the construction of additional development in the same area. (See EIR at 6-2-3.) Although the EIR concludes that the Project would not induce growth, as stated above concerning the "Conversion of Lands to Non-Agricultural Uses," the nature of the Project opens the land to non-agricultural uses despite the assertions in the EIR to the contrary. In doing so, even though the extension of services as a result of the USA expansion and the land annexation is currently planned only to connect to those uses specifically identified in the EIR, the very fact that the USA would be expanded and additional land annexed into the City opens these new areas to additional development. Therefore, the EIR's conclusions that the Project would not induce significant growth are unsupported. Where additional analysis on this issue discloses a new significant impact, the City would be required to recirculate the Draft EIR pursuant to State CEQA Guidelines section 15088.5.



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Alternatives

Project Objectives 4, 5, 6 and 10 actually describe components of the proposed Project. The specificity of these objectives, and their similarity to the Project as proposed, precludes effective consideration of Project alternatives. Any Project alternative that does not include all of these Project components by default fails to meet the Project's Objectives to the extent that the proposed Project would, thereby permitting the City to reject the alternative even if it would reduce the Project's significant and unavoidable impacts. As evidence of this, the only alternatives considered are the various components of the Project and the mandatory No Project alternative. In addition, the EIR discloses that the Project would result in a minimum of eight significant and unavoidable environmental impacts. Almost all of these impacts are directly related to the intensity of proposed land use and resulting noise, traffic and air quality impacts. Therefore, a "reduced scale" alternative should have been included for analysis. However, the ability to analyze alternatives which could reduce the Project's significant and unavoidable impacts is seriously constrained by the targeted Project objectives. Thus, the EIR's analysis of alternatives is deficient: it does not satisfy CEQA's information disclosure purposes, it fails to analyze a reasonable range of alternatives which could minimize Project impacts (State CEQA Guidelines, § 15126.6(a), (c)), and it ignores the California Supreme Court's directive that the alternatives and mitigation analysis be "the core of an EIR" (see *Citizens of Goleta Valley v. Bd. of Supervisors* (1990) 52 Cal.3d 553, 564).

Conclusion

For the foregoing reasons, we urge the City Council to not approve the Draft EIR at this time. As you know, LAFCO is a Responsible Agency for the Project and will require adequate CEQA documents to complete its review of the proposals. Therefore, on behalf of LAFCO, we respectfully request that the City prepare a revised Draft EIR that addresses the identified deficiencies and that the City then circulate the revised documents for review and comment, as required by CEQA.

Sincerely,

A handwritten signature in black ink, appearing to read 'Malathy Subramanian', with a long horizontal flourish extending to the right.

Malathy Subramanian
General Counsel for the Local Agency Formation
Commission of Santa Clara County



February 18, 2014

VIA EMAIL

Rebecca Tolentino, Senior Planner
Development Services Center
City of Morgan Hill
17555 Peak Avenue
Morgan Hill, CA 95037-4128

Re: Draft Environmental Impact Report for Citywide Agriculture Preservation Program and Southeast Quadrant Land Use Plan

Dear Ms. Tolentino

Thank you for providing the Santa Clara County Local Agency Formation Commission (LAFCO) with an opportunity to review and comment on the Draft Environmental Impact Report (DEIR) for the City of Morgan Hill's Proposed Southeast Quadrant Land Use Plan and Citywide Agriculture Preservation Program. Furthermore, thank you for extending the public comment period to February 18th and for discussing the proposed project with LAFCO staff on February 5th.

It is our understanding that, as part of the proposed project, the City intends to apply to LAFCO in order to expand its Urban Service Area (USA) boundary to facilitate the City's eventual annexation of certain lands and also in order to annex additional lands outside of its USA boundary. Therefore, LAFCO is a Responsible Agency under CEQA for the City's proposed project. LAFCO staff and LAFCO's Legal Counsel (Attachment A) have reviewed the City's DEIR & Citywide Agriculture Preservation Program and have provided the following comments for the City's consideration.

Separation of the SEQ Land Use Plan from the City's General Plan Update Process that is Currently in Progress is a Violation of Rational Planning Practices and CEQA Procedures

As we understand it, the scope of the City's proposed project is extensive; it involves major changes to the City's General Plan and includes at least the following:

Changes to Existing Growth Management Boundaries and Jurisdictional Boundaries

- Expanding the City's Urban Limit Line to include 840 acres in the SEQ.
- Expanding the City's Urban Growth Boundary to include 659 acres in the SEQ.
- Expanding the City's Urban Service Area to include 305 acres in the SEQ.
- Annexing 759 acres of the SEQ into the City Limits

<p>Creation of a New Land Use Designation in the City’s General Plan and Creation of a New Zoning Districts</p> <ul style="list-style-type: none"> • Create a Sports-Recreation-Leisure land use designation and zoning district
<p>Application of City Land Use Designations to Lands in the SEQ</p> <p>Apply the following land use designations to SEQ lands:</p> <ul style="list-style-type: none"> • Sports-Recreation-Leisure: 251 acres • Residential Estate: 76 acres • Public Facilities: 38 acres • Open Space: 445 acres • Rural County: 480 acres
<p>Application of City Zoning Designations to Lands in the SEQ</p> <p>Apply the following zoning district designations to SEQ lands:</p> <ul style="list-style-type: none"> • Sports-Recreation-Leisure (142 acres in Subdistrict A and 109 acres in Subdistrict B): 251 acres • Residential Estate: 9 acres • Public Facilities (with a Planned Development overlay): 38 acres • Open Space (with a Planned Development overlay): 461 acres • 531 acres will remain under County Jurisdiction with the County’s A-20 Acre (Exclusive Agriculture 20-acre minimum) Designation
<p>Establishment of Citywide Policies / Programs re. Agricultural & Open Space Lands</p> <ul style="list-style-type: none"> • Development of Agricultural Preservation Policies and Mitigation
<p>Development Proposals in the SEQ</p> <ul style="list-style-type: none"> • Private high school on 38 acres • Privately initiated development proposals in the SEQ covering over 375 acres <ul style="list-style-type: none"> • Craiker Sports Retail/Restaurant Uses • Puliafico Sports-Recreation-Leisure Uses • Jacoby Sports-Recreation-Leisure Uses • Chiala Planned Development (Under Chiala Family Ownership)

Given the project’s sizeable scope (as outlined above), the large amount of unincorporated land that will be directly affected by the project (approximately 1,300 acres in the SEQ which is equal to over 15% of current city lands), the fact that these lands are overwhelmingly prime agricultural lands and the long-term significance of planning for these lands not only to the property owners/businesses in the vicinity but to the entire city and the region, the project should be considered in the context of a comprehensive general plan update.

Furthermore, in 1996, the City of Morgan Hill adopted its urban growth boundary (UGB). Subsequently, the County and the City adopted joint policies in their respective general plans to address among other things, how to administer and maintain a dependable UGB and established a rational process for considering changes to the UGB over time. According to these policies, major modifications to the UGB location should be processed only in the context of a “comprehensive City General Plan land use element update , which occurs on an approximately 10 year interval, unless triggered by the established criteria, findings, or prerequisites, to ensure coordination between relevant land use planning issues and growth management considerations.”

This project has the potential to impact the entire city, the surrounding unincorporated lands, and the region. Consideration of these impacts and the overall need, timeliness, and location of such a project are best considered and analyzed through a comprehensive general plan update process.

The DEIR states that the City has begun such a process to create a new General Plan through 2035 and that the process will involve updating the City's master plans and identifying infrastructure needed to service future growth areas. The DEIR also indicates that the SEQ Area will be included in these studies and will contribute to the build-out of the necessary infrastructure as a condition of development and through payment of development impact fees. However, we understand that the proposed SEQ Land Use Plan and Citywide Agriculture Preservation Program were developed and are being considered and are intended to be approved/adopted separate from the City's current General Plan update process.

The proposed Project is a major revision of the City's General Plan and should be considered in the context of a comprehensive general plan update and should involve broad stakeholder participation.

LAFCO Policies and State Law Encourage Cities to Pursue the Development of Vacant and Underutilized Incorporated Lands Before Seeking to Annex Agricultural Lands

As part of the proposed project, the City is seeking to expand its Urban Service Area boundary (USA) and annex portions of the SEQ Area. We understand that the SEQ Area consists of largely prime agricultural land and that the City wants to include these lands in its USA even as the City has substantial amounts of land within its current boundaries that are vacant or underutilized. State law and LAFCO policies discourage the conversion of agricultural land to non-agricultural uses and require that development be guided away from existing prime agricultural lands. The statutes and policies call for a city to exhaust existing vacant or underutilized lands within its boundaries before expanding into agricultural lands because developing lands which are already within a city's boundaries would allow for more effective use of existing city infrastructure, would result in more efficient provision of city services, would discourage premature and unnecessary conversion of irreplaceable agricultural land to urban uses, and would encourage compact development that would be more consistent with greenhouse gas reduction regulations and goals. The County also has similar long-standing policies discouraging the premature conversion of agricultural lands and managing growth. It is unclear how the proposed project is consistent with State law, LAFCO policies, County General Plan policies, and City policies.

Annexation of Lands Outside of City's Urban Service Area is Inconsistent with LAFCO Policies

As part of the proposed project, the City intends to request annexation of lands outside of its Urban Service Area (USA). LAFCO Policies strongly discourage such annexations until inclusion into the Urban Service Area is appropriate because the general purpose

for a city to annex lands is to provide them with necessary urban services (including police, fire, water, wastewater, and storm water management) in order to allow for their subsequent development.

As you know, LAFCO has no authority over lands once they are annexed into a city (irrespective of whether they are in the USA boundary or not). Upon annexation, these lands are under the city's authority for land use and development decisions and a city can amend the zoning and general plan designations for these lands and develop them. As part of any annexation or urban service area amendment request, LAFCO is required to consider whether the city has the ability to provide urban services to the proposed growth areas without detracting from current service levels.

Furthermore, LAFCO would only consider annexations outside of the USA if it is to promote the preservation of open space and/or agricultural land. If it is the City's intent to annex lands outside of its USA for such purposes, LAFCO will require the City to sufficiently demonstrate that the affected lands will be permanently preserved for agricultural/open space purposes. One potential way in which permanent preservation can be demonstrated is by dedicating such lands to a qualified agricultural/open space conservation entity that has a clear preservation program and has the legal and technical ability to hold and manage conservation easements or lands for the purpose of maintaining them in open space or agriculture. According to the DEIR, these lands are planned for residential estate sized lots, sports-recreation-leisure related uses, and agricultural-related uses; and the permanent preservation of all of these lands is not proposed.

The DEIR concludes the proposed project is consistent with LAFCO's policies. However, as indicated above, it is unclear how the proposed annexation of these lands outside of the City's USA would be consistent with LAFCO Policies.

Proposed Southeast Quadrant Land Use Plan Including its Various Project Components is Inconsistent with Many of the Stated Objectives of the Project

Three of the stated objectives of the proposed project are to:

- 1) "Identify lands within the SEQ area viable for permanent agriculture;"
- 2) "Develop a program that fosters permanent agriculture within the SEQ Area and citywide through land use planning, agricultural preservation policies/programs, and agricultural mitigation."
- 3) "Create an open space/agricultural greenbelt along the southern edge of the City's Sphere of Influence boundary."

However, it is unclear how the proposed SEQ Land Use Plan and its various project components will be consistent with the above objectives. According to the DEIR, the proposed project will convert several hundred acres of agricultural lands to non-agricultural uses.

The Southeast Quadrant (SEQ) Area includes approximately 1,290 acres of private land, plus 48 acres of public roadways. Per the DEIR, these lands are currently developed with rural-residential and agricultural uses. The DEIR states that the SEQ contains 707 acres of Important Farmland (approx. 597 acres of Prime Farmland, 87 acres of Farmland of Statewide Importance, and 23 acres of Unique Farmland). When Farmland of Local Importance is accounted for, the SEQ contains approx. 771 acres of agricultural land per the California Department of Conservation's 2010 Important Farmlands Map.

Per the DEIR, the City is proposing to annex 759 acres of the 1,290 total acres (58.8% of the total private land area). The proposed high school site contains 38.63 acres of Important Farmland. The proposed 251-acre Sports-Recreation-Leisure Land Use Designation and Zoning District will overlap with and thus potentially convert a minimum of 120 acres of the Important Farmland to non-agricultural use. Furthermore, it is anticipated that the proposed 461-acre Open Space (Planned Development overlay) Zoning District will include a yet to be determined number of acres of sports-recreation-leisure related uses, residential estate sized lots, and agricultural-related uses. The proposed Open Space District overlaps with and thus potentially could convert hundreds of acres of Important Farmland to non-agricultural use.

Per the DEIR, the remaining agricultural land in the SEQ Area would form an "Agricultural Priority Area" that would be bordered on the north by lands in the existing city limits, on the west by lands zoned for urban development [e.g. commercially oriented uses such as gas stations, restaurants, motels/hotels, and grandstands/stadiums, and potentially two drive-thru uses (restaurants or gas stations)], and on the east by lands also zoned for urban development (e.g. residential estates, adventure sports/facilities, arts and crafts, batting cages, equestrian centers, farmers markets, and indoor/outdoor sports centers). It is unclear how the introduction of urban land uses into one of the last remaining agricultural areas in the county would help achieve the aforementioned project objectives.

Proposed Boundary Adjustments are Illogical and Render Boundaries Meaningless for Planning and Growth Management Purposes

The proposed project includes major adjustments to the City limits (i.e. annexation) urban service area, urban growth boundary, and urban limit line. However, these boundary adjustments and their relation to each other appear illogical from a planning and growth management perspective. For example, the City is proposing to annex lands while keeping these same lands outside of the City's Urban Service Area, but including most of these same lands in the City's Urban Growth Boundary and Urban Limit Line. The proposed use and configuration of boundaries renders each boundary meaningless for planning and growth management purposes.

Additionally, the DEIR identifies an "Agricultural Priority Area" that has been identified as a "priority location to preserve and encourage the long-term viability of agricultural and Open Space Lands." However, the DEIR indicates that the vast majority of the "Agricultural Priority Area" will be located within the City's proposed Urban Limit Line

which would “define the ultimate limits of City urbanization beyond the 20-year timeframe of the Urban Growth Boundary.”

Project’s Adverse Impacts to Agricultural Lands Cannot be Fully Mitigated and Represent a Significant and Unavoidable Impact

Per the DEIR, as part of the proposed project, the City proposes to adopt an Agricultural Preservation Program, which would apply to new development citywide that converts agricultural land to a non-agricultural use. Applicants would be required to mitigate the loss of farmland through measures that may include payment of an agricultural mitigation fee, acquisition of other agricultural land, or dedication of an agricultural conservation easement on eligible agricultural land and payment of a fee to cover ongoing management and monitoring activities. Mitigation would be required at a ratio of 1:1 (1 acre of mitigation for 1 acre of agricultural land converted to a non-agricultural use). While mitigation preserves agricultural land that may otherwise be converted to nonagricultural use in the future, it does not provide additional, new farmland to replace the original acres lost as a result of the proposed project. Therefore, impacts to agricultural resources, even with mitigation in place, would be considered significant and unavoidable and conversion of agricultural land should only be considered when there is no vacant or underutilized land left within a city or existing USA boundary to accommodate growth.

Furthermore, the DEIR notes that the proposed agricultural mitigation fee of \$15,000 per an acre is not sufficient to purchase agricultural conservation easements on land surrounding the City of Morgan Hill at a 1:1 ratio. The DEIR states that the City will use additional funds to augment the mitigation fee in order to accomplish this objective. Given the lack of information provided in the DEIR concerning these additional funds and noted uncertainties on this matter, it is unclear whether 1:1 mitigation will actually occur.

Project’s Potential Adverse Impacts to Williamson Act Lands Cannot be Self Mitigated and Represent a Significant and Unavoidable Impact

The DEIR indicates that the SEQ Area contains 10 properties totaling 91.65 acres that are encumbered by active Williamson Act contracts and that one of the properties is contemplated for annexation, while the other nine are not. The DEIR incorrectly states that should any of the Williamson Act contracts be required to be cancelled as a prerequisite for annexation, such a cancellation would be considered a self-mitigating aspect of the proposed project and would preclude the possibility of a conflict with a Williamson Act contract. If the proposed project could result in the early cancellation of a Williamson Act contract, this impact would be considered significant and unavoidable.

LAFCO Policies and State Law Require LAFCO to Consider Availability of Adequate Water Supply

Given the various identified deficiencies in the environmental analysis discussed here and in Attachment A, it is unclear whether the water supply assessment and water demand analysis conducted for the proposed project is adequate for LAFCO purposes. As part of LAFCO's review of any urban service area amendment or annexation request, LAFCO policies and State law require LAFCO to consider the availability of adequate water supply.

Analysis of Cumulative Effects and Growth-Inducing Impacts is Deficient

As discussed in this letter and Attachment A, analysis of impacts to agricultural resources, land use, population and housing, and greenhouse gas emissions is deficient. These deficiencies render the analysis of cumulative effects and growth-inducing impacts deficient as well.

Key Elements of the Proposed Agricultural Preservation Program Require Clarification and Outcome of Proposed Program is Uncertain

As you know, LAFCO adopted Agricultural Mitigation Policies in 2007 and these Policies encourage cities with potential LAFCO applications involving or impacting agricultural lands to adopt citywide agricultural mitigation policies and programs that are consistent with these policies. We have reviewed the City's Proposed Agricultural Preservation Program and have the following questions and comments about the program and its potential outcome:

Agricultural Priority Area

Under the proposed Program, "the Agricultural Priority Area is defined as an area within the SEQ that has been identified as a priority location to preserve and encourage the long-term viability of agricultural and Open Agricultural Lands..." The boundaries of the proposed Priority Area are illogical, and particularly when coupled with the various elements of the SEQ Land Use Plan are unlikely to fulfill the City's stated objective of preserving and encouraging long-term viability of agricultural lands.

The proposed Agricultural Priority Area is sandwiched between and surrounded on three sides by, lands proposed to be included within the city limits. The surrounding city lands are proposed to be designated for urban uses such as "Sports Recreation and Leisure" which would allow for "private commercial, retail, and /or public /quasi-public, at a scale that creates a destination area for both regional and local users..." Potential applications in the area including a private high school for 1,600 students, 40,000 square feet of sports retail, 3,000 square feet of sports themed, sit-down restaurant, outdoor sports fields, indoor facilities for indoor soccer, batting cages, volleyball courts, ropes challenge course, medical offices for minor sports related injuries, and other commercial recreation and sports fields, provide a picture of the type of development likely to occur in the area. Given the potential for direct land use

conflicts between such high intensity urban uses and agriculture, and the additional impacts of extending roads, and services through the Agricultural Priority Area to serve the new development, it is improbable that the City's efforts to prioritize agriculture in this area will be successful. The City has not provided an explanation for setting these irregular boundaries for its Agricultural Priority Area.

Furthermore, the SEQ Land Use Plan proposes that the proposed City Urban Limit Line include the vast majority of the Agricultural Priority Area. However, the "Urban Limit Line defines the ultimate limits of city urbanization beyond the 20-year timeframe of the Urban Growth Boundary." Adopting an Urban Limit Line that includes lands identified for agricultural preservation will result in increased land values in the priority area due to speculation, drive-up the cost of agricultural mitigation to a point where preservation is financially infeasible, and discourage farmers and conservation entities from making any long-term agricultural investments in the area.

Mitigation Ratio and Agricultural Preservation In-Lieu Fee

The City's proposed Agricultural Lands Preservation Program requires mitigation at a ratio of 1:1, i.e., one acre of in-perpetuity of farmland preservation for each acre of farmland conversion. The Mitigation Fee Nexus study prepared for the City indicates that the cost of acquiring a conservation easement would be approximately \$47,500 per acre in the Morgan Hill area and approximately \$12,750 per acre in the Gilroy area. The City's Agricultural Lands Preservation Program intends to preserve agricultural lands within Morgan Hill's sphere of influence with a focus for land preservation in the City's SEQ area. The City however, proposes to establish an Agricultural Preservation In-Lieu Fee, including the Program Surcharge Fee, in the amount of approximately \$15,000 per acre which would be insufficient to cover the cost of easement acquisitions in the Morgan Hill sphere of influence or in the SEQ area. No explanation is provided for establishing a fee that does not cover the mitigation costs in the preferred / priority area.

Furthermore, the City indicates that additional funds would be needed in order to purchase conservation easements in the Priority Area. However, the City does not provide any detailed or specific information on the source of the City's funds, current amount available, any limitations of these funds, and projected availability.

Given the amount of the proposed in-lieu fee and lack of information on the availability of other funding sources, it is impossible to conclude with any certainty that the proposed program will result in conservation of agricultural lands in the Priority Area.

Agricultural Land Definition

Under the City's proposed Program, lands identified as "Grazing Land" on the 2010 map of the Farmland Mapping and Monitoring Program are not subject to the offsetting preservation/mitigation requirement. However, it is well known that many lands identified as grazing land are simply prime farmland left fallow. Given the limited amount of prime farmland left in the County, the City should not exempt "Grazing Land" from the offsetting preservation/mitigation requirement, without first confirming

that these lands are not prime farmland. If it is determined that these lands are prime farmland, then they too should be considered “Agricultural Land” and be subject to the offsetting preservation/mitigation requirement.

Open Agricultural Land Definition

Please clarify the difference between “Agricultural Land” and “Open Agricultural Land” as defined and used in the City’s Agricultural Lands Preservation Program. What is the significance of open agricultural land to the Preservation Program?

Qualifying Entity Definition

Under the City’s Proposed Program, the qualifying agricultural conservation entity should meet certain technical, legal, management, and strategic planning criteria and the entity’s performance should be monitored over time against those criteria. However, it appears that a public agency could not be considered such an “entity” even if it meets all of the identified criteria. The specific purpose served by eliminating public agencies from being a “qualifying entity,” provided that they demonstrate that they meet the remaining criteria, is unclear. In fact, there are many benefits associated with using a public agency for agricultural conservation purposes, such as greater public accountability and transparency requirements, financial stability, publicly elected Boards, and better access to certain government grants or funding. For these reasons, the City should include public agencies in its consideration of qualifying entities. The proposed program also states that the “third party Qualifying Entity will need to include individuals with direct experience and knowledge of farming activities.” Please clarify the purpose of this requirement and what role the City envisions these individuals might play in the Qualifying Entity. This requirement also has the risk for increased potential for conflicts of interest, which in public agencies can be better disclosed / managed through Fair Political Practices Commission requirements.

Stay Ahead Provision

It is unclear how such a provision would be implemented and why an applicant or the City might choose this option of providing mitigation prior to converting or developing farmland. Without further details on this provision, it is impossible to provide meaningful comments on it.

Measurement of Affected Area

The City’s proposed Program excludes certain portions of property that are left as “open space/ open fields that in the future could be put back to agricultural uses” when calculating the total agricultural mitigation requirement.

Such an exemption is inconsistent with the intent of LAFCO’s agricultural mitigation policy. The urban service area of a city delineates land that will be annexed to the city, and provided with urban services / facilities and developed with urban uses. Based on this, it is implicit that any land proposed for inclusion in a City’s USA will be converted to support urban development unless the land is protected as agricultural land in

perpetuity by a conservation easement. Therefore, it is not appropriate to exclude certain portions of property based on the assumption that they could at some point be put back into use as agricultural lands. Additionally, there is no way to guarantee / enforce that the land will remain "open space" unless the lands are preserved in-perpetuity through a conservation easement.

Conclusion

For the foregoing reasons, we urge the Morgan Hill City Council to not approve the proposed Environmental Impact Report (EIR) at this time. As noted above, LAFCO is a Responsible Agency for certain aspects of the proposed project and therefore has an independent obligation to review the EIR for legal adequacy under CEQA prior to issuing any approvals for the project (CEQA Guidelines, §15096). As detailed in this letter and Attachment A, we have identified significant deficiencies in the DEIR. Therefore, we respectfully request that the City prepare a revised environmental document that addresses the identified deficiencies and then circulate the revised document to affected agencies and the public for their review and comment, as required by CEQA.

If you have any questions regarding these comments, please contact me at (408) 299-5148. Thank you again for providing us with the opportunity to comment on this significant project.

Sincerely,



Neelima Palacherla,
Executive Officer

Attachment A: LAFCO Counsel's February 18, 2014 Letter: Comments on Citywide Agriculture Preservation Program and Southeast Quadrant Land Use Plan Draft Environmental Impact Report

cc: Andrew Crabtree, Director, Morgan Hill Community Development Department
LAFCO Members
County of Santa Clara Planning and Development Department

Ms. Rebecca Tolentino, Senior Planner
Development Services Center
17575 Peak Avenue
Morgan Hill, CA. 95037

Dear Rebecca,

On behalf of the Chiala family we appreciate the opportunity to respond to the draft EIR for the Southeast Quadrant and wish herewith to pass on a couple of questions and concerns that our family has. They are as follows:

Land Use Section, pages 3.9-24 and 25.

The final paragraph on page 3-9-24 and sections of page 25 that suggest an "alternative text for the RDCS provisions" is an extreme and cautious interpretation of the Chapter 18.78, enacted by voters under previous Measure C and P. We believe a careful review of the legislative history and background of these RDCS initiatives program would confirm that the primary voter concern was focused mostly on the extension of sewer and water services, which at the time were problematic due to the perception that these were seen as "growth inducing". (Again, as included in the DEIR, the proposed annexation of the Chiala area does not include extensions of sewer and water services.) We do not believe that either of the voter initiatives intended or included specific direction concerning extension of police and fire services.

Santa Clara County and cities have a history of mutual aid agreements covering overlapping city police/county sheriff services as well as fire services. Fire service for our property is provided by Cal Fire, a State agency contracted to provide fire services to both the County and City of Morgan Hill properties therefore it appears to be a moot point as to an added burden of service.

It is our opinion the remedy offered in the DEIR should direct it to: 1) establish a mutual aid agreement with the City of Morgan Hill/County Sheriff for police service to this area and/or 2) clarify, via anticipated amendments to the existing RDCS, the provision of police services to the area.

Alternatives to the Proposed Project

The author of the Alternative Section seems to misunderstand the purpose of the Citywide Agricultural Plan and the proposed uses on the Chiala properties. As explained in the Executive Summary (Page ES2-5) the Chialas' proposals are to, a) enter into agricultural preservation easements, b) cluster and transfer existing residential development rights and c) provide land for a farm educational center and community garden. These are the essential components of preserving some agriculture in the Southeast Quadrant.

Excluding the Chiala properties, as part of any overall plan, would eliminate the three above features and thereby eliminate the primary methods for preserving agriculture. As a result, excluding the Chiala properties in any or all of the DEIR Alternatives would have an overwhelming negative impact on agriculture in the project area. Without our property's participation, the Agricultural Preservation program has little chance for success in our opinion.

The family would like to thank you in advance for your consideration and response to our stated concerns and questions.

Regards,


Bill Chiala

DEVELOPMENT
SERVICES

FEB 18 2014

CITY OF MORGAN HILL



CITY COUNCIL STAFF REPORT

MEETING DATE: June 22, 2005

TITLE: URBAN LIMIT LINE/GREENBELT STUDY

EXECUTIVE SUMMARY:

Background. On April 20, 2005 the City Council received the Committee's Urban Limit Line/Greenbelt Report and directed staff to prepare an equal evaluation of all proposals. Staff was directed to return to the Council in June 2005 with a comparative analysis, responses to letters, and recommended action plan for moving the Program forward into environmental review and implementation.

Recommended Actions: (to be carried out during FY 2005-06)

1. For all of the city's Sphere of Influence area *except for the Southeast Quadrant*, accept the staff-recommended "project description" for a General Plan Amendment (as presented in Attachment I.E.), and direct filing of the application and preparation of environmental review. The GPA amendment will include establishment of the Urban Limit Line, amendment of the Urban Growth Boundary line, and incorporation of a Greenbelt diagram and policies.
2. Direct staff to initiate consultant selection activities for the Industrial Land Market Study (ILMS), to address existing and potential industrial lands within the city's sphere of influence.
3. Direct staff to work with Santa Clara County on county development regulations related to reducing the visual impacts of new hillside development.

Recommended Future Activities

SOUTHEAST QUADRANT. Staff believes that it is premature to take any actions regarding the Southeast Quadrant (SEQ) until after the recommended Industrial Land Market Study (ILMS), at which time the Planning Commission and City Council will be able to consider its conclusions and determine *whether, to what extent, and when* the SEQ should be planned for future urban development. The range of choices to be considered at that time could include, but not be limited to:

- The Council could determine that the only urban development desired for the SEQ is an industrial park in the vicinity of the 101/Tennant interchange, and that the rest should be "Rural County"; likely to be a mix of small agricultural and rural residential uses. The Council would then provide direction for location and timing of applying the industrial land designation/prezoning.
- The Council could determine that more, or even all, of the SEQ should be held in reserve for urban development. In that case, the Council should probably provide direction at that time regarding whether further study of urban uses should occur as part of the next General Plan Update, or at some other time.
- In light of the above considerations, the Council could consider in the future whether a program to acquire land and/or conservation easements in the SEQ area is desired as part of the city's "greenbelt" program, or whether reliance on existing parcel pattern and County zoning (any new parcels could not be less than 20 acres) is adequate. It is estimated that under existing County zoning there is potential for an additional 80 dwelling units in the SEQ.

GREENBELT FINANCING AND IMPLEMENTATION PROGRAM. Staff believes that the City Council will need to complete the ILMS, complete the General Plan Amendment, and have the above "Southeast Quadrant Discussion", before further, more detailed analysis of greenbelt financing and implementation options can occur. This means that staff is suggesting that the ULL/Greenbelt Work

Agenda Item #15

Prepared By:

**K. Schreiber, D.
Bischoff, K. Molloy**

Approved By:

**Community
Development Director**

Submitted By:

City Manager

Program will consist of the Industrial Land Market Study and General Plan Amendment/environmental review during FY 2005-06; with further analysis and discussion of financing and implementation options occurring the following year.

ATTACHED INFORMATIONAL BOOKLET: The attached booklet includes all of the information requested by the City Council. It is tabbed for ease of use, in accordance with this Table of Contents:

- I. Staff Analysis
 - A. Introduction
 - B. Key Information
 - C. Discussion of Key Policy Issues
 - D. Presentation of Staff Recommendations Regarding Key Program Components
 - 1. Modifications to Definitions of “Greenbelt” and “Urban Limit Line”
 - 2. Location of Urban Limit Line
 - 3. Location of Greenbelt
 - 4. Need for Measure C Amendment and/or Ballot Measure(s)
 - 5. Southeast Quadrant (SEQ) Land Uses
 - 6. Priority for obtaining Title or Conservation Easements over Greenbelt Lands; and Study of Funding/Implementation Mechanisms
 - 7. Amendments to Urban Growth Boundary
 - E. Compilation of Staff Recommendations, including the “Project Description” for the General Plan Amendment that would establish the Urban Limit Line, amend the Urban Growth Boundary, and incorporate a Greenbelt Diagram and Policies
- II. Comparative Analysis of Five Proposals
 - A. Comparative Analysis Summary Report
 - B. Comparison Table
 - C. Descriptions of Proposals
 - 1. Urban Limit Line-Greenbelt Advisory Committee Report, Map & Recommendations (“Committee Proposal”)
 - 2. Kennett, Beasley, Tichinin Proposal (“KBT Proposal”)
 - 3. Property Owner Group Proposal (“Owner Group Proposal”)
 - 4. Existing General Plan (“No Project Proposal” – existing text/policies)
 - 5. Staff Recommendation (“Staff Proposal” - in Section I.E. of Booklet)
- III. Written Responses to Letters
 - A. Jeffrey Hare Letter representing Trustees of Nick Sr. and Jackie Borina Trust
 - B. Andrew Faber Letter representing Keven and Charlene Lai
 - C. Steve White Letter representing American Anchorpoint Schools
 - D. Gary Justino Letter representing himself
 - E. Bart Hechtman Letter representing American Anchorpoint Schools
 - F. Art Puliafico Letter representing himself
- IV. Maps of Morgan Hill Prime Agricultural Soils and Agricultural Resources
- V. Information regarding City of Gilroy Agricultural Mitigation Program
- VI. Minutes of April 20th City Council Meeting

FISCAL IMPACT:

Funds for the amendment of the General Plan and environmental review are included in the funds appropriated for the Urban Limit Line/Greenbelt Study. Funds for the Industrial Land Market Study and staff support for the Urban Limit Line/Greenbelt work are part of the proposed 2005-06 Budget. Future adoption of a Greenbelt Financing and Implementation Program will likely include implementation activities that would impose an ongoing cost. Resources needed that exceed the existing level of TDC funds obtained from Measure C developers and Open Space Authority funding are proposed to be identified during the next phase of greenbelt planning.

URBAN LIMIT LINE / GREENBELT BOOKLET

TABLE OF CONTENTS

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URBAN LIMIT LINE/GREENBELT STUDY

I. STAFF ANALYSIS

A. INTRODUCTION

On April 20, 2005, the City Council received the Urban Limit Line Advisory Committee's Final Report. At the meeting, the Council also received an alternative to the Committee's recommendations from three members of the Urban Limit Line Advisory Committee: Alex Kennett, Michele Beasley and Bruce Tichinin ("KBT Proposal"). That proposal is further explained by a May 24, 2005 city staff memo that summarizes answers to a series of questions posed to the three Committee members (see Attachment II.C.2).

Council requested that staff prepare an equal evaluation of all proposals. Staff was directed to return to the City Council in June 2005 with a comparative analysis, responses to letters, and a recommended action plan for moving the Program forward into environmental review and implementation.

Staff has prepared all of the information requested by the Council, including a comparison of the following five alternative proposals:

1. Urban Limit Line-Greenbelt Advisory Committee Report, Map & Recommendations ("Committee Proposal")
2. Kennett, Beasley, Tichinin Proposal ("KBT Proposal")
3. Property Owner Group Proposal ("Owner Group Proposal")
4. Existing General Plan ("No Project Proposal" – existing text/policies)
5. Staff Recommendation ("Staff Proposal" - in Section I.E. of Booklet)

The primary purposes of this staff analysis and the associated informational booklet materials are to:

- Provide key information that is critical to understanding the ULL and Greenbelt issues and potential actions;
- Identify key policy issues;
- Provide a comparison table to assess the five alternatives;
- Address and make recommendations on the site specific issues raised at the June 22nd City Council meeting and/or in the Council packet; and
- Provide staff's recommendations, including an implementation strategy for moving the Study to the point where actions can be taken.

The Staff's recommendations are addressed at various points in the staff analysis as well as in the attached comparison table. Attachment I.E. presents a compilation of all staff recommendations, including the "Project Description" for the General Plan Amendment that would establish the Urban Limit Line, amend the Urban Growth Boundary, and incorporate a Greenbelt Diagram and Policies.

B. KEY INFORMATION

Certain information has been instrumental in guiding the ULL study and shaping the Advisory Committee's work and recommendations. Following are brief summaries of eleven of these items:

1. City Council directions for the Study included:
 - The existing Urban Growth Boundary (UGB) was to be respected, with amendments only when directly warranted by the Study's conclusions, and
 - The Study was not to become a major revision of the General Plan.
2. The General Plan was the source of two issues addressed by the Advisory Committee:
 - Address future use of the area bounded by Edmundson, DeWitt and Sunset (General Plan Open Space and Conservation Action 2.12), and
 - Address the need for an industrial park in the area near Tennant Avenue and Highway 101 (General Plan Open Space and Conservation Action 2.2).
3. There is a large amount of vacant land within the Urban Growth Boundary. If the development trends of the past decade continue, vacant land inside the UGB is sufficient for the following growth:
 - Single Family Residential: development to the late 2020s/early 2030s (about 1700 acres);
 - Multiple Family Residential: development to the late 2020s/early 2030s (about 230 acres);
 - Commercial: development to the mid 2040s to early 2060s (about 240 acres);
 - Industrial: development to the late 2020s/early 2030s (about 640 acres); and
 - Public and Quasi-Public Facilities (e.g., parks, schools, churches): development to 2020 (about 75 acres).
4. Serious questions have been raised about the suitability for industrial development of substantial portions of vacant industrial land located both within the City and within unincorporated parts of the Urban Growth Boundary (UGB). Issues include the size of parcels, location of sites, and difficulty in and/or cost of providing utilities for the area west of Highway 101 and south of Tennant Avenue. Questions have also been raised about existing developed industrial lands that are or may in the near future become obsolete. These questions are a major reason for the recommended Industrial Land Market Study. If currently designated industrial land is found to be viable for the City's industrial expansion over the next 20 to 30 years, then designation of industrial land in the Southeast Quadrant (SEQ) is far less pressing than if a substantial amount of vacant industrial land is found not to be suitable for future industrial uses.
5. If development trends of the past decade continue, the following amounts of vacant land outside of the Urban Growth Boundary would be needed to sustain growth to the year 2050:
 - Single Family Residential: 750 to 875 acres;
 - Multiple Family Residential: 115 to 150 acres;
 - Commercial: None to minimal;
 - Industrial: 400 to 450 acres; and
 - Public and Quasi-Public Facilities (e.g., parks, schools, churches): 220 to 330 acres.

Areas outside the Urban Growth Boundary that have prime urban expansion potential are:

- The Diana Avenue/East Main Avenue area east of Highway 101 extending to Hill Road (about 200 to 250 acres);
- The area west of Highway 101 between the Madrone Business Park and Sobrato High School/San Jose's Coyote Valley Greenbelt (about 150 to 175 acres); and
- The Southeast Quadrant bounded by Highway 101, San Pedro Avenue, Maple Avenue and Carey Road (about 1200 acres).

Decisions on inclusion within the UGB of all or parts of the Diana Avenue/East Main Avenue area and/or the area between north of the Madrone Business Park will be made as part of future major General Plan updates. As elaborated on in this analysis, decisions on adding to the Urban Growth Boundary an industrial area in the Southeast Quadrant could be made prior to or as part of a future major General Plan update.

6. The Santa Clara County Local Agency Formation Commissions (LAFCO) effectively controls how much unincorporated land can be added to cities and when the annexation can occur. LAFCO policies, reinforced by State law, focus on containing growth inside current municipal boundaries and Urban Service Areas. Other than development defined by LAFCO as infill of existing urban areas, adding land to cities requires an assessment of existing vacant land. It is becoming increasingly difficult to gain LAFCO approval of expansion into new areas if land within the existing urbanized areas still has more than five years worth of vacant and underutilized land to be absorbed by new development.
7. A significant amount of unincorporated land in the valley floor is classified by the State as prime agricultural soil (see Attachment IV, Prime Agricultural Soils Map). Much of the prime soil is not used for agricultural activities. The City does not have policies or a mitigation program that addresses conversion of prime agricultural soil to urban development. LAFCO has a policy to discourage use of prime soils for urban use but no defined mitigation measures. The City of Gilroy's Agricultural Land Mitigation Policy is included for reference as Attachment V. in the Informational Booklet.
8. The typical parcel pattern in unincorporated areas, including the Southeast Quadrant, is ten acre or smaller parcels. There are very few parcels larger than twenty acres and these are predominantly hillside sites. Essentially almost every parcel in the unincorporated area is a residential building site, many of which are developed. The current County zoning for most of these parcels is one unit per 20 acres. This parcel pattern will have significant financial effects on the potential for acquiring extensive Greenbelt areas, both because many parcels are already developed and the value of most land is as a residential site and not as agricultural or ranchland acreage.
9. In the SEQ, the existing pattern of 10+/- (i.e. between 9 and 13 acres) acre lots will facilitate, over the next decades, the conversion of currently vacant or agricultural 10+/- acre parcels to rural residential uses. Use of all the 10+/- acre parcels for rural residential sites would add about 80 houses to the 125 that currently exist in the SEQ. If City policies offer a prospect for future urban uses that outweigh the value of large lot rural residential uses, the conversion will be slowed. In some communities, rural residential development of one unit per ten or twenty

acres is considered “greenbelt”, even though privately owned, due to its non-urbanized character. Creation of scattered 10+/- acre rural residential sites would become an obstacle to alternative urban land uses, should an area be desired for urban development in the future. The Committee suggested that its proposed SEQ Area Plan accommodate about 2,000 new homes.

10. In the SEQ, sale of vacant or agricultural land yields land values that reflect substantial speculation on future urban development notwithstanding that the area is outside the Urban Growth Boundary and thus is not likely to have urban development for at least 20 years.
 - Recent land sales of 10+/- acre parcels have been on the order of \$1,000,000.
 - The same ten acre site valued for agricultural purposes would be worth between \$25,000 and \$100,000 depending on the quality of the soil, access to water and the presence of usable agricultural features (e.g. fruit trees, buildings).
 - A ten acre flat rural residential site with no additional development potential and located on the valley floor would likely be worth on the order of \$500,000.
11. The visual impacts of hillside development on views of the hills from the valley floor is a significant issue. In selecting Greenbelt areas and potential acquisition sites within the Greenbelt, the Advisory Committee sought to avoid future development-related negative visual impacts issues. The negative visual impact of some new development highlights the importance of working with Santa Clara County on more vigorous County regulation of hillside development. The Santa Clara County Board of Supervisors recently directed County staff to undertake a study of hillside development regulations. The Santa Clara County development review process is discussed on pages 42 and 43 of the Advisory Committee’s Final Report. Critical regulatory issues include the type of development that is subject to increased regulation; building height limits, color and placement on the site; landscaping; lighting; and grading.

The next section identifies and discusses staff conclusions and recommendations regarding three key policy issues.

C. KEY POLICY ISSUES

The three policy issues discussed below emerged as the Advisory Committee's work progressed. The three issues are stated as staff conclusions that the Council may or may not agree with. These issues are reviewed both to highlight them for City Council and to facilitate Council discussion.

Staff concurs with the Advisory Committee's direction on the first two issues. Regarding planning for the Southeast Quadrant, staff has reached the conclusion, as identified below and in other parts of the Analysis, that the City should defer taking action on the Southeast Quadrant until after the Industrial Land Market Study is completed. That Study is part of the 2005-06 City budget.

1. *The City should identify a very long term boundary, to identify areas for possible urbanization beyond the next 20 to 30 years.*

Item #3 in the Key Information section of this analysis indicates that the City has, within the Urban Growth Boundary, enough vacant land to meet anticipated urban growth for over 20 years. The possible exception to this is industrial land if the Industrial Land Market Study finds that some of the currently designated industrial land (e.g., the area west of Highway 101 and south of Tennent Avenue) is not suitable for meeting future industrial land needs. The three areas outside the UGB identified in #5 of the Key Information section of the analysis would satisfy the need for urban land to 2050.

An advantage of having an ULL is that City land use policies and expectations are clearer especially for property owners. Property owners should be able to make better long term land use decisions. However, for properties that are inside the ULL but removed in distance and time from becoming part of the City, the ULL might be misinterpreted as a City commitment to annexation rather than a policy of maintaining the long term possibility of annexation. The City's UGB has worked well since its adoption in 1997. Some have argued that the UGB's 20 year time frame is as long as projections can be reasonably made and the City doesn't need a longer term ULL that inherently has a greater degree of uncertainty. Others have argued that establishing the ULL will help deter the conversion of unincorporated parcels into large lot rural residential sites that would be impediments to future urban uses of outlying land.

2. *The City should establish a program to acquire Greenbelt land and conservation easements..*

The Greenbelt land acquisition program would include but expand on current policies that focus acquisition of open space land on El Toro and other lands with slopes exceeding 20 percent. Acquiring Greenbelt land and conservation easements will not address all concerns related to hillside development. Key Information items 8 and 11 note the impact of the existing parcel patterns in unincorporated areas, and the importance of County land development regulations on addressing development impacts in the unincorporated area.

It is clear from the Advisory Committee's work that acquiring land and easements for a Greenbelt will be a complicated and expensive process whether it occurs by private sector developers or public agency staff. Discussions with staff from jurisdictions that have or are acquiring greenbelt lands either in fee title or through open space easements indicates that not only the land acquisition process takes considerable time and resources, but that management of

acquired land is also complicated with related expenses. In adopting a Greenbelt program the City will need to consider the very long term commitments needed for dedication of staff and financial resources.

3. *The City Council should defer making a decision on possible urban uses in the Southeast Quadrant (SEQ) until after the completion of the Industrial Land Market Study (ILMS).*

As noted in the first policy issue and Key Information item #5, the City has enough vacant land within the Urban Growth Boundary to satisfy City growth needs (with the possible exception of industrial land) for over 20 years. If the Industrial Land Market Study (ILMS) concludes that the City does have an adequate supply of industrial land suitable to meet market needs for at least the next twenty years, then urban development in the SEQ is unlikely to occur until at least the 2030s (a possible exception is the land between Highway 101 and Murphy Avenue from Barrett Avenue to south of Tennant Avenue that is inside the Urban Growth Boundary but not yet designated for an urban use). If the Study concludes that a new industrial land location is needed, then a prime location would be in the SEQ.

After completion of the ILMS, the Council will have a better basis for addressing what they see as the longer term vision for the SEQ and answering the following questions:

- Should the City plan for urbanization of the SEQ; recognizing that development of much of that area will not begin for 20 or more years?
- Or, is the long term future of the SEQ a rural area with a mixture of ten acre residential estates and agricultural uses (with the possible exception of an industrial area)?

Staff believes that it is premature to take any actions regarding the Southeast Quadrant (SEQ) until after the recommended Industrial Land Market Study (ILMS), at which time the Planning Commission and City Council will be able to consider its conclusions and determine ***whether, to what extent, and when*** the SEQ should be planned for future urban development. The range of choices to be considered at that time could include, but not be limited to:

- The Council could determine that the only urban development desired for the SEQ is an industrial park in the vicinity of the 101/Tennant interchange, and that the rest should be “Rural County”; likely to be a mix of small agricultural and rural residential uses. The Council would then provide direction for location and timing of applying the industrial land designation/prezoning.
- The Council could determine that more, or even all, of the SEQ should be held in reserve for urban development. In that case, the Council should provide direction at that time regarding whether further study of urban uses should occur as part of the next General Plan Update, or at some other time.
- In light of the above considerations, the Council could consider in the future whether a program to acquire land and/or conservation easements in the SEQ area is desired as part of the city’s “greenbelt” program, or whether reliance on existing parcel pattern and County zoning (any new parcels could not be less than 20 acres) is adequate. It is estimated that under existing County zoning there is potential for an additional 80 units in the SEQ.

The next section presents staff recommendation for a variety of key components of the Program.

D. PRESENTATION OF STAFF RECOMMENDATIONS REGARDING KEY PROGRAM COMPONENTS

This section of the Analysis reviews staff recommendations regarding:

1. Modifications to definitions of “Greenbelt” and “Urban Limit Line”
2. Location of Urban Limit Line
3. Location of Greenbelt
4. Need for Measure C Amendment and/or Ballot Measures
5. Southeast Quadrant Land Uses
6. Priority for obtaining Title or Conservation Easements over Greenbelt Lands
7. Amendments to Urban Growth Boundary

Items 2 through 7 are addressed in more detail in the attached comparison table, including within the Comparative Analysis Summary Report (Attachment II.A.). The table compares the five alternatives identified on the first page of this analysis. The fifteen factors used in the comparison table relate to Advisory Committee recommendations and significant areas of difference between the five alternatives.

1. MODIFICATIONS TO DEFINITIONS OF “GREENBELT” AND “ULL”

Staff recommends several changes to the definitions of Urban Limit Line and Greenbelt, from those contained in the Committee’s Report. The definition of the ULL in the Advisory Committee’s Final Report noted that the Line “is intended to be permanent” and is thus an ultimate boundary. The Advisory Committee recognized that the Line could be amended by future City Councils as part of their land use planning role. The City Attorney has noted that the use of “permanent” could become a point of challenge for someone concluding that they were being deprived of the opportunity to request a change in the Line’s location. The revised wording replaces “permanent” with “reflect the City’s long term policy for growth of Morgan Hill, beyond the twenty-year timeframe of the UGB.”

The definition of Greenbelt assumed that all Greenbelt land would be outside the City. Late in the Advisory Committee’s work, Silveria Park and adjacent land was identified as a part of the Greenbelt. The recommended revision to the definition reflects the Committee’s recommendations that some Greenbelt locations are inside the City and thus City regulations will apply to these areas. The definition has also been revised to reflect the intent to acquire Greenbelt land (via easements or in fee title) in selected locations.

The recommended revised definitions are:

Urban Limit Line: The Urban Limit Line (ULL) separates urban and future urban areas from rural areas. The ULL is a longer-term version of the Urban Growth Boundary (UGB) and is intended to ~~be permanent~~ reflect the City’s long term policy for growth of Morgan Hill, beyond the twenty-year timeframe of the UGB. The purpose of an ULL is to encourage more efficient growth patterns, minimize public costs, and protect environmental resources. Some, but not all, of the land outside the ULL has been designated as Greenbelt.

Greenbelt: The purpose of areas ~~designated~~ shown as “Greenbelt” on the Greenbelt Diagram is to help physically define the City in terms of distinguishing between rural and urban character, to identify areas where the City and County intend to ~~and~~ focus efforts to minimize the impacts of rural development, and to identify selected locations where acquisition of open space easements or land in fee title will be pursued by the City or other public agencies. The Greenbelt includes public spaces and private properties that have importance for one or more environmental reasons, including visual prominence, earthquake hazard-related limitations, and steep slopes. The Greenbelt areas are non-urban lands which are located primarily in the unincorporated County area, outside of around the City. ~~The Greenbelt designation is intended to be permanent.~~ Designation as Greenbelt does not change the development potential or restrictions imposed under applicable Santa Clara County or City development policies and regulations. ~~In the Valley floor east of Highway 101 and south of San Pedro, the aims of the Greenbelt will be achieved through visual corridors, parks, hiking and bicycle trails and other open areas.~~

The KBT proposal uses a different definition of Greenbelt. For KBT, the Greenbelt is all land outside the ULL. KBT do not make a differentiation between the predominately hillside Greenbelt areas and land close to or in the valley floor. The Advisory Committee concluded that much of the flatter land outside the ULL was developed as residential sites, many of which are five acres or smaller. These rural residential sites did not fit the Committee’s definition of Greenbelt. There was also a concern that applying the Greenbelt designation to these residential areas could impact real estate transactions by, for some people, creating confusion about the impact of the “Greenbelt” description on future use of land. The Committee designated specific Greenbelt areas, most of which are hillside locations.

2. LOCATION OF THE URBAN LIMIT LINE

Staff recommends that the Advisory Committee’s ULL be adopted except to follow Hill Road between Half Road and the City limits north of Dunne Avenue.

West of Highway 101, the Advisory Committee’s ULL closely follows the Urban Growth Boundary (UGB) with three exceptions: a) the Edmundson/DeWitt/Sunset area; b) a 17-acre site on Watsonville Road west of Santa Teresa Boulevard; and c) all the land north of the Madrone Business Park.

East of Highway 101, the Advisory Committee’s ULL places notable areas that are outside the UGB inside the ULL, including the Vista de Lomas/Peebles Avenue area and land between Half Road and Diana Avenue, as well as an extensive area north of Hill Road below the 460 foot elevation. In the SEQ, there is no identified ULL. The location of the ULL in the SEQ would result from the Area Plan.

Staff disagrees with the Advisory Committee’s inclusion in the ULL of the eastern foothills from the 460 foot elevation west to Hill Road. This area has a similar parcel and development pattern as other unincorporated areas that are outside the ULL. There is no indication that property owners in this area want higher density urban development. Inclusion of the area would send a confusing signal to property owners and future City decision makers regarding the intended development of this area.

3. LOCATION OF THE GREENBELT

Staff recommends that the Advisory Committee's six recommended Greenbelt areas be incorporated into the General Plan as a diagram within the Plan but not as part of the Land Use Map as a "designation".

The Advisory Committee identified six Greenbelt areas:

- San Jose's Coyote Valley Greenbelt and the Coyote Creek Park chain to the north of the City's Sphere of Influence;
- The foothills on the eastern and western sides of the valley, including El Toro;
- The western side of El Toro and foothills on the western side of Paradise Valley;
- The hill and surrounding land in the area bounded by Edmundson, DeWitt and Sunset Avenues;
- The hill south of Edmundson Avenue and north of Sycamore Avenue; and
- Silveria Park and the adjacent City-owned land along Llagas Creek.

For the SEQ, the Advisory Committee's intent is that the Greenbelt be achieved through enhanced landscape features including both private property such as street setbacks and development-related design features such as trails and public sector park improvements.

4. NEED FOR MEASURE C AMENDMENT AND/OR BALLOT MEASURE(S)

Staff recommends that there is no need to amend Measure C to implement the Advisory Committee or staff recommendations. In the future, the City may need to evaluate the possible need for/value of a ballot measure, if an open space mitigation requirement is pursued.

The Advisory Committee does not assume any amendments to Measure C. For the SEQ, the impacts of development timeframes is to be assessed and the need for amendment of Measure C is to be evaluated.

5. SOUTHEAST QUADRANT LAND USES

Staff recommends deferring planning for the SEQ until completion of the Industrial Land Market Study.

After completion of the ILMS, staff recommends the City:

- assess the need to plan for a limited amount of future urban growth or to pursue planning for larger scale urban development in the SEQ; and
- decide whether addressing SEQ issues is appropriate as a separate set of actions or should be considered as part of the next major update of the General Plan.

6. PRIORITY FOR OBTAINING TITLE OR CONSERVATION EASEMENTS OVER GREENBELT LANDS; AND STUDY OF FUNDING/IMPLEMENTATION MECHANISMS

Staff recommends the Advisory Committee's recommendations regarding acquisition of land and recommends doing further study of funding mechanisms after completion of the Industrial Land Market Study.

The Advisory Committee recommends a targeted program for acquisition of Greenbelt land in fee title or conservation easements with first priority being the east side of El Toro, the Edmundson/DeWitt/Sunset area and undeveloped hillside parcels on the east side of the valley north of Dunne Avenue. Existing Transfer of Development Credit (TDC) fees and the Open Space Authority local funding program would be used. An Open Space impact fee for new development should be considered. Grants and the possibility of using General Obligation Bonds should be explored. Minimal to no use of the City's General Fund is assumed.

7. AMENDMENTS TO URBAN GROWTH BOUNDARY

Staff recommends approval of the Advisory Committee's proposed General Plan amendments including modifications to the UGB.

The Advisory Committee recommends amendment of the General Plan to address modifications of text, Policies and Actions consistent with their recommendations. The specific wording of General Plan amendments will be drafted by staff as part of initiating the environmental review process.

There are five recommended amendments to the Urban Growth Boundary, including:

1. Removing the Boy's Ranch area from the UGB;
2. Adjusting the UGB on El Toro to be coterminous with the Urban Service Area;
3. Adding 20 acres to the UGB west of Sunset Road as part of securing open space easements on a significant portion of the Edmundson/DeWitt/Sunset area;
4. Removing from the UGB a site on Water Avenue; and
5. Removing an approximately 20 acre parcel west of Casino Real because the site has an open space easement.

The Committee recommends continuing the General Plan provision that the UGB can be amended in the Greenbelt process to future actions on the SEQ Area Plan.

The next section will present a compilation of all staff recommendations, including the staff recommendations regarding each of the written letters/requests addressed in Attachment III of the Informational Booklet. This next section includes the staff-recommended "Project Description" for the General Plan Amendment that would establish the Urban Limit Line, amend the Urban Growth Boundary, and incorporate a Greenbelt Diagram and Policies.

E. COMPILATION OF STAFF RECOMMENDATIONS, INCLUDING THE “PROJECT DESCRIPTION” FOR THE GENERAL PLAN AMENDMENT THAT WOULD ESTABLISH THE URBAN LIMIT LINE, AMEND THE URBAN GROWTH BOUNDARY, AND INCORPORATE A GREENBELT DIAGRAM AND POLICIES

The following staff recommendations include issues addressed in the preceding analysis as well as more detailed information in the attached comparison table and responses to written letters/requests.

Staff's recommendations address both immediate and future City Council actions for moving the Urban Limit Line/Greenbelt Program forward into implementation.

Recommended Actions: (to be carried out during FY 2005-06)

- I. For all of the city's Sphere of Influence area *except for the Southeast Quadrant*, accept the following staff-recommended “project description” for a General Plan Amendment, and direct filing of the application and preparation of environmental review. The GPA amendment will include establishment of the Urban Limit Line, amendment of the Urban Growth Boundary line, and incorporation of a Greenbelt diagram and policies, as detailed below:
 - A. A modified definition of the Urban Limit Line as described in Section I.D. of the Staff Analysis;
 - B. A modified definition of Greenbelt as described in Section I.D. of the Staff Analysis;
 - C. Proposed General Plan Amendment to include the following staff-recommended components:
 1. Regarding location of the ULL, staff recommends the Line as recommended by the Advisory Committee with one exception for the area east of Highway 101. The ULL is recommended to follow Hill Road for the area between Half Road and Dunne Avenue.
 2. Modifying the Greenbelt section of the Open Space and Conservation Chapter (page 85-86) to add a new Greenbelt and Urban Limit Line section including text, policies and actions related to the Greenbelt and Urban Limit Line.
 3. Modifying the Agricultural section to address the infeasibility of, in the longer term, continuation of agricultural activities in the area south of San Pedro Avenue and east of Highway 101.
 4. Modifying Community Development Goal 3 Policies, including Policy 3b to reflect Greenbelt actions in the southwest area and adding a new Policy 3d regarding the ULL and Greenbelt.
 5. Adding specific policies regarding:
 - a. Development of the Vista de Lomas area with parcels of approximately 2.5 acres when the area qualifies for annexation to the City;
 - b. Development on the Kruse Ranch Lane property;
 - c. Development in the Edmundson/DeWitt/Sunset area; and
 - d. The intent of the location of the Urban Limit Line and Urban Growth Boundary in relation to the Greenbelt on El Toro, the area north of Malaguerra Avenue and the site on Water Avenue near Silveria Park.

6. Amend an approximately 20 acre area west of Sunset from Rural County to Single Family Low (1 to 3 dwelling units per acre).
7. Modifying other General Plan references to Greenbelt issues.

D. Amendment of the Urban Growth Boundary including:

1. Boy's Ranch Area: the UGB should be amended to exclude the area north of Malaguerra Avenue (see Map 3 in the Committee's Final Report).
2. El Toro: The UGB should be adjusted to be coterminous with the Urban Services Area (see Map 4 in the Committee's Final Report).
3. Edmundson/DeWitt/Sunset Area: West of Sunset Road, amend the Urban Growth Boundary to include a maximum of 20 acres. All of the 20 acres must consist of land with a slope of 10 percent or less (see Map 6 in the Committee's Final Report).
4. Water Avenue Site: A parcel on Water Avenue is the only parcel that is inside the UGB and slopes steeply away from potential City utilities. It would be difficult to service with City sanitary sewer service. The site and adjacent area are recommended to be outside the Urban Limit Line. The Advisory Committee recommends that the UGB be amended to exclude the site (see Map 5 in the Committee's Final Report).
5. Open Space parcel west of Casino Real: A major portion of an approximately 20-acre parcel was placed under an open space easement as the result of adjacent residential development in the City. The site is recommended to be part of the Greenbelt and removed from the UGB. The site will remain in the Urban Service Area (USA) as an historic anomaly rather than process a USA amendment with the Santa Clara County Local Agency Formation Commission (see Map 7 in the Committee's Final Report).

E. The above components would reflect the staff recommendations contained in Section III of the Informational Booklet related to the responses to written letters/requests regarding the "site specific" matters; as well as those additional staff recommendations contained in Section II.B. of the Informational Booklet, the Comparison Table/Matrix.

The General Plan amendments and environmental review would be reviewed by the Planning Commission and City Council at public hearings.

- II. Direct staff to initiate consultant selection activities for the Industrial Land Market Study (ILMS), to address existing and potential industrial lands within the city's sphere of influence. The consultant's report, developed in coordination with City staff, would be reviewed by the Planning Commission and City Council.
- III. Direct staff to work with Santa Clara County on county development regulations related to reducing the visual impacts of new hillside development.

Recommended Future Activities

SOUTHEAST QUADRANT. Staff believes that it is premature to take any actions regarding the Southeast Quadrant (SEQ) until after the recommended Industrial Land Market Study (ILMS), at which time the Planning Commission and City Council will be able to consider its conclusions and determine *whether, to what extent, and when* the SEQ should be planned for future urban development. The range of choices to be considered at that time could include, but not be limited to:

- The Council could determine that the only urban development desired for the SEQ is an industrial park in the vicinity of the 101/Tennant interchange, and that the rest should be “Rural County”; likely to be a mix of small agricultural and rural residential uses. The Council would then provide direction for location and timing of applying the industrial land designation/prezoning.
- The Council could determine that more, or even all, of the SEQ should be held in reserve for urban development. In that case, the Council should provide direction at that time regarding whether further study of urban uses should occur as part of the next General Plan Update, or at some other time.
- In light of the above considerations, the Council could consider in the future whether a program to acquire land and/or conservation easements in the SEQ area is desired as part of the city’s “greenbelt” program, or whether reliance on existing parcel pattern and County zoning (any new parcels could not be less than 20 acres) is adequate. It is estimated that under existing County zoning there is potential for an additional 80 dwelling units in the SEQ.

GREENBELT FINANCING AND IMPLEMENTATION PROGRAM. Staff believes that the City Council will need to complete the ILMS, complete the General Plan Amendment, and have the above “Southeast Quadrant Discussion”, before further, more detailed analysis of greenbelt financing and implementation options can occur. This means that staff is suggesting that the ULL/Greenbelt Work Program will consist of the Industrial Land Market Study and General Plan Amendment/environmental review during FY 2005-06; with further analysis and discussion of financing and implementation options occurring the following year.

The assignment would include analysis and recommendations regarding existing and potential greenbelt funding and implementation mechanisms. This phase of the greenbelt program would address staffing, including investigation of the possibility of contracting for services with another agency. When the City Council discusses this matter next year after completion of the Industrial Land Market Study and ULL-Greenbelt General Plan Amendment, consideration should be given to creating a Task Force to assist staff with developing a greenbelt financing and implementation program.

II. COMPARATIVE ANALYSIS OF FIVE ALTERNATIVE PROPOSALS

On April 20, 2005, the City Council requested that staff prepare an evaluation of Urban Limit Line/Greenbelt issues including a comparison matrix addressing equally the following three alternatives:

- The Advisory Committee recommendations;
- The KBT proposal; and
- A proposal submitted in Fall 2004 by a group of property owners in the Southeast Quadrant (i.e., the area bounded by Highway 101, San Pedro Avenue, Maple Avenue and Carey Avenue).

Staff has added two alternatives:

- The current approach to urban containment as guided by the General Plan, and
- Staff Recommendations.

Reliance on the current General Plan has been added to identify future actions should none of the alternatives be adopted. Staff has added recommendations to the Matrix for each of the factors analyzed.

The fifteen factors are used in the matrix relate to the Advisory Committee's recommendations and significant areas of difference between the five alternatives.

The following text highlights key aspects of the five alternatives focusing on the location of the ULL, location of the Greenbelt, Measure C/Ballot issues, SEQ land uses, and implementation.

1. LOCATION OF THE URBAN LIMIT LINE

West of Highway 101, the Advisory Committee's ULL closely follows the Urban Growth Boundary (UGB) with three exceptions: the Edmundson/DeWitt/Sunset area, a 17 acre site on Watsonville Road west of Santa Teresa Boulevard and all the land north of the Madrone Business Park. East of Highway 101, notable areas outside the UGB that the Committee placed inside the ULL are the Vista de Lomas/Peebles Avenue area and land between Half Road and Diana Avenue as well as an extensive area east of Hill Road below the 460 foot elevation. In the SEQ, there is no identified ULL. The location of the ULL in the SEQ would result from the Area Plan.

West of Highway 101, the KBT proposal is the same as the Advisory Committee. East of Highway 101, KBT places three areas outside the ULL that the Committee has inside the ULL: the Vista de Lomas/Peebles Avenue area; the single family designated area north of Half Road; and land east of Live Oak High School from Half Road to Diana Avenue. In the SEQ, the only area inside the ULL is possibly an industrial park near Tennant Avenue and Murphy Avenue if there is a need for the land and an alternative location is not found.

The Southeast Quadrant Property Owners have all of the SEQ inside the ULL.

The General Plan does not address an ULL.

Staff recommends that the Advisory Committee's ULL be adopted except to follow Hill Road between Half Road and the City limits north of Dunne Avenue.

2. LOCATION OF THE GREENBELT

The Advisory Committee identified six Greenbelt areas:

- San Jose's Coyote Valley Greenbelt and the Coyote Creek Park chain to the north of the City's Sphere of Influence;
- The foothills on the eastern and western sides of the valley, including El Toro;
- The western side of El Toro and foothills on the western side of Paradise Valley;
- The hill and surrounding land in the area bounded by Edmundson, DeWitt and Sunset Avenues;
- The hill south of Edmundson Avenue and north of Sycamore Avenue; and
- Silveria Park and the adjacent City-owned land along Llagas Creek.

For the SEQ, the intent of the Greenbelt is to be achieved through enhanced landscape features including both private property such as street setbacks and public property including such items as trails and public parks. Total area devoted to landscape features would be between 30 and 40 percent of the 1,200 acres in the SEQ.

The KBT proposal identifies all land that is outside the ULL as Greenbelt land. In the SEQ all land would be part of the Greenbelt with the exception of a future 200 acre industrial park, if needed.

The Southeast Quadrant Property Owners accept, for the SEQ, the Advisory Committee's concept of having Greenbelt policies addressed through landscape design features and public land but with a smaller amount of Greenbelt land.

The General Plan does not identify Greenbelt areas.

Staff recommends that the Advisory Committee's recommended Greenbelt areas be incorporated into the General Plan as a map within the Plan but not as part of the Land Use Map.

3. MEASURE C/BALLOT MEASURES

The Advisory Committee does not assume any amendments to Measure C. For the SEQ, the impacts of development timeframes is to be assessed and the need for amendment of Measure C is to be evaluated.

The KBT proposal calls for an amendment to Measure C be submitted to the votes to incorporate their mitigation programs for loss of open space land (i.e., a requirement that developers of any vacant land provide the City with an equivalent amount of land outside the ULL either via a conservation easement or in fee title). Their proposal indicates that a second ballot measure may be needed to establish a mitigation program for nonresidential development. KBT also proposes that the ULL be adopted through a ballot measure.

The Southeast Quadrant Property Owners want to have Measure C amended to allow for near-term residential development in the SEQ and to reserve a specific number of permits for the area.

Staff recommends that there is no need to amend Measure C to implement the Advisory Committee or staff recommendations. In the future, the City may need to evaluate the possible need for/value of a ballot measure for an open space mitigation requirement is pursued.

4. SOUTHEAST QUADRANT LAND USES

The Advisory Committee recommends that an Area Plan be developed for the SEQ with the following allocation of land uses:

- Industrial/Business Park: 200 +/- acres
- Commercial: 45 +/- acres
- Large Lot Residential (existing): 130 acres
- Parks, trails, creek corridors and scenic setbacks: 375 to 500 +/- acres
- Varying residential densities: 375 to 500 +/- acres with up to 2,000 dwelling units

Specific plans would refine the Area Plan and establish implementation rules and expectations.

KBT does not propose an Area Plan. Land for an industrial park would be accommodated if the Industrial Land Market Study indicates that industrial land in the SEQ is warranted.

The Southeast Quadrant Property Owners concur with the idea of an Area Plan but want increased acreage for urban uses and decreased amounts of open space. Specific plans would refine the Area Plan with an initial focus on industrial and commercial areas.

The current General Plan would permit an Area Plan if the City wished to prepare one. However, there would be no requirement to have the Area Plan. The area near Tennant Avenue and Highway 101 that is currently inside the Urban Growth Boundary would remain within the UGB but creation of an industrial park would require future UGB and General Plan amendments. Other urban uses in the SEQ could also occur with General Plan amendments and annexation-related approval by LAFCO .

Staff recommends deferring planning for the SEQ until completion of the Industrial Land Market Study. After completion of the ILMS, staff recommends the City:

- assess the need to plan for a limited amount of future urban growth or to pursue planning for larger scale urban development in the SEQ; and
- decide whether addressing SEQ issues is appropriate as a separate set of actions or should be considered as part of the next major update of the General Plan.

5. IMPLEMENTATION---LAND ACQUISITION

The Advisory Committee recommends a targeted program for acquisition of Greenbelt land in fee title or conservation easements with first priority being the east side of El Toro, the Edmundson/DeWitt/Sunset area and undeveloped hillside parcels on the east side of the valley north of Dunne Avenue. Existing Transfer of Development Credit (TDC) fees and the Open Space Authority local funding program would be used. Consideration of an Open Space impact fee for new development is also recommended. Grants and the possibility of using General Obligation Bonds should be explored. Minimal to no use of the City's General Fund is assumed.

KBT proposes a new open space mitigation program that would require developers of any vacant land to provide “open space land” through conservation easements or in fee title. State law (Government Code Section 66000 et seq.) requires that a City establish a reasonable relationship between the development project on which a fee is imposed and the fee’s use and the need for the public facility or use. In addition, State law requires a reasonable relationship between the amount of the fee and the cost of the public facility or use attributable to the project. Compliance of the KBT proposal with State law would need to be evaluated.

The KBT proposal does not address the continuation of the TDC program, Open Space Authority fees, use of grants, General Obligation Bonds and the General Fund.

The Southeast Quadrant Property Owners want future public land identified in the Area Plan and public purchase of all open space land that is not required as a condition of development approval.

Based on General Plan policies, the City’s first priority land acquisition is assumed to continue to be El Toro.

Staff recommends the Advisory Committee’s recommendations regarding acquisition of land and recommends doing further study of funding mechanisms after completion of the Industrial Land Market study.

6. IMPLEMENTATION—GENERAL PLAN INCLUDING URBAN GROWTH BOUNDARY AMENDMENTS

The Advisory Committee recommends amendment of the General Plan to address modifications of text, Policies and Actions consistent with their recommendations. The specific wording of General Plan amendments will be drafted by staff as part of initiating the environmental review process.

There are five recommended amendments to the Urban Growth Boundary including:

1. Removing the Boy’s Ranch area from the UGB;
2. Adjusting the UGB on El Toro to be coterminous with the Urban Service Area;
3. Adding 20 acres to the UGB west of Sunset Road as part of securing open space easements on a significant portion of the Edmundson/DeWitt/Sunset area;
4. Removing from the UGB a site on Water Avenue; and
5. Removing an approximately 20-acre parcel west of Casino Real because the site has an open space easement.

The Committee recommends continuing to the SEQ Area Plan the General Plan provision that the UGB can be amended in the Greenbelt process.

KBT and the Southeast Quadrant Property Owners do not address Urban Growth Boundary amendments. Other than the current study, the General Plan limits amendment of the UGB to major General Plan updates.

Staff recommends the Advisory Committee’s proposed General Plan amendments including modification of the UGB recommendations.

ASSESSMENT OF URBAN LIMIT LINE/GREENBELT ALTERNATIVES

Abbreviations

Urban Growth Boundary---UGB

Urban Limit Line---ULL

Southeast Quadrant---SEQ

Factor	Advisory Committee Recommendation	Kennett, Beasley and Tichinin Proposal	Southeast Quadrant Property Owners Recommendations	Reliance on the General Plan	Staff Recommendation
1. Location of the ULL outside the SEQ	<p>ULL generally follows the UGB west of Highway 101---notable exceptions that are inside the ULL include:</p> <ul style="list-style-type: none"> • Edmundson/DeWitt/Sunset area; • A 17 acre site on Watsonville Road (located west of Santa Teresa); and • All land between the Madrone Business Park and the Sphere of Influence north of Burnett Avenue; <p>East of Highway 101, notable areas outside the UGB that are inside the ULL include:</p> <ul style="list-style-type: none"> • the Vista de Lomas/Peebles Avenue area with larger parcels; and • Between Half Road and Dunne, includes all land below 460 foot elevation including land east of Live Oak High School and the Kruse Ranch Lane site. 	<ul style="list-style-type: none"> • ULL west of Highway 101 same as Committee recommendations. <p>East of Highway 101 differences from the Committee recommendations include:</p> <ul style="list-style-type: none"> • Vista de Lomas/Peebles Avenue area outside the ULL. • Residential Estates and Low Density Residential land north of Half Road excluded from ULL. • Land east of Live Oak High School from Half Road to Diana Avenue excluded from ULL. 	Not applicable	<ul style="list-style-type: none"> • No ULL. • UGB amendments can be considered in future major General Plan updates. 	Accept the Advisory Committee recommended Urban Limit Line except to follow Hill Road between Half Road and the City limits north of Dunne Avenue.
2. Location of the ULL inside the SEQ	No ULL identified for area north of Maple Avenue between Carey Road and Highway 101 until Area Plan is prepared.	All of SEQ outside the ULL except possibly an area near Tennant and Murphy Avenue intersection for an industrial park (KBT map is precise in this area but intent is to leave option open for approximately	All of the SEQ should be inside the ULL with urban land use designations determined in a future Area Plan.	No ULL	Defer determining the location of the ULL in the SEQ until either a land use study following completion of the Industrial Land Market Study or the next major update of the General Plan.

Factor	Advisory Committee Recommendation	Kennett, Beasley and Tichinin Proposal	Southeast Quadrant Property Owners Recommendations	Reliance on the General Plan	Staff Recommendation
Factor 2 continued		200 acres of industrial land if the future Industrial Land Market Study determines a need for industrial land and this area was the preferred location).			
3. Number of acres outside the ULL	8,300 acres (rounded)	9,000 acres (rounded)	Not applicable	Not applicable	8,600 acres (rounded)
4. Number of acres in the ULL that are outside the UGB	2,200 acres (rounded)	1,500 acres (rounded)			1,900 acres (rounded)
5. Cochrane Road Assessment District	Land included inside the ULL	Land designated Residential Estates and Single Family Low located north of Half Road that is inside the UGB as a result of the Cochrane Road Assessment District decision is excluded from ULL.	Not applicable	All Cochrane Road Assessment District land remains inside the UGB and retains the Residential Estate or Single Family Low Residential land use designations.	Endorse the Committee recommendation
6. Location of the Greenbelt outside the Southeast Quadrant	<ul style="list-style-type: none"> San Jose's Coyote Valley Greenbelt and the Coyote Creek Park chain to the north of the City's Sphere of Influence; The foothills on the eastern and western sides of the valley, including El Toro; The western side of El Toro and foothills on the western side of Paradise Valley; The hill and surrounding land in the area bounded by Edmundson, DeWitt and Sunset Avenues; The hill south of Edmundson Avenue and north of Sycamore Avenue; and Silveira Park and the adjacent City-owned land along Llagas Creek. 	Greenbelt defined as all unincorporated land within the Sphere of Influence that is outside the ULL. The Advisory Committee's specific Greenbelt sites are not part of the KBT written proposal. See also factor 10.	Not applicable	The Greenbelt section of the General Plan has policies to define the urban area from adjacent cities and create a permanent Greenbelt but no specific locations are identified. The Plan's text related to Open Space calls for preserving a variety of land types but no specific sites are identified other than Open Space land on the Land Use Plan Map and no specific land preservation priorities are identified.	Incorporate the Committee identified Greenbelt areas into the General Plan as a map within the Plan and not part of the Land Use Map. Land uses in Greenbelt area would continue to be those allowed by applicable zoning, which for most Greenbelt land, is Santa Clara County zoning.

Factor	Advisory Committee Recommendation	Kennett, Beasley and Tichinin Proposal	Southeast Quadrant Property Owners Recommendations	Reliance on the General Plan	Staff Recommendation
7. Location of the Greenbelt inside the Southeast Quadrant	“Greenbelt” is to be feature of the Enhanced Rural Landscape concept totaling between 375 and 500 acres of the 1,200 acres in the SEQ. Greenbelt to include design elements such as expanded street setbacks, trails and parks.	All of the SEQ would be considered Greenbelt except for a possible industrial park if the Industrial Land Market Study results in the conclusion that an industrial park is needed. All Greenbelt land would continue to be able to develop under County development polices and regulations.	Greenbelt concept similar to Advisory Committee recommendation but with less Greenbelt land.	No identified Greenbelt	Defer Greenbelt-related decisions until either a land use study following completion of the Industrial Land Market Study or the next major update of the General Plan.
8. How much land in the Greenbelt	6,500 acres	9,000 acres	To be determined in the Area Plan process	Not applicable	Endorse the Advisory Committee recommendation except for the SEQ (see # 7 above).
9. Measure C ballot measure/Measure C amendment issues and assumptions	Impact of development timeframes to be assessed; no amendment of Measure C assumed; need for amendment of Measure C for the SEQ to be evaluated as part of the SEQ Area Plan.	Amendment of Measure C to adopt a mitigation program for loss of open space land (intent is to have mitigation apply to all vacant land converted to urban uses; may need two ballot measures to address residential in Measure C and non-residential in a separate measure). In addition to Measure C, intent is to have the ULL be approved by the voters.	Amend Measure C to provide for an additional allocation of housing units for the SEQ to accelerate urban development.	Measure C continues without amendment.	Do not pursue amending Measure C to increase the amount of housing authorized either throughout the City or within the SEQ. If, as part of financing the Greenbelt, an open space mitigation requirement is pursued, consider the possible need for/value of a ballot measure.
10. Assumptions/expectations regarding the amount of public sector land acquisition	<ul style="list-style-type: none"> Targeted program for acquisition of Greenbelt land in fee title or conservation easements; No acreage targets set; Acquisition principles and polices on pages 37-42 of Final Recommendations; and Highest priority acquisition areas are east side of El Toro, Edmundson/DeWitt/Sunset area, and undeveloped hillside parcels on the east side of the valley north of Dunne Avenue. 	<ul style="list-style-type: none"> Land acquisition would be primarily through developer acquisition of land or conservation easements within the Greenbelt (i.e. Greenbelt defined as all land outside the ULL) as part of development process. No priority acquisition areas identified but that could be done by the City by allowing land/easement acquisitions in certain areas and/or giving incentives to secure them in certain areas. 	<ul style="list-style-type: none"> SEQ public land would be identified in the Area Plan process. Open space land that is not required as a condition of development approval would be purchased by the public. Extent of future public purchase obligations would be determined in the Area Plan. 	Land acquisition priority would continue to be eastern flank of El Toro	Endorse the Advisory Committee recommendations.

Factor	Advisory Committee Recommendation	Kennett, Beasley and Tichinin Proposal	Southeast Quadrant Property Owners Recommendations	Reliance on the General Plan	Staff Recommendation
11. Assumptions/expectations regarding funding sources for public sector land acquisition	<ul style="list-style-type: none"> Existing in lieu fees for Transfer of Development Credits (yielding about \$225,000 +/- per year); Open Space Authority local funding program (yielding about \$20,000 per year but will increase to \$60,000 +/- if Authority prevails in lawsuit); Open Space impact fee for new development should be considered; Grants should be pursued; and General Obligation bonds should be considered Assumption is minimal to no use of City General Fund 	<ul style="list-style-type: none"> A new open space land mitigation program would require developers provide land (very likely that land developers would request an in lieu fee). TDC payments may continue depending on how the approval priority system is structured. Not stated but assumption is that Open Space Authority fees would continue. Open Space impact fee dropped from proposal. Grants not addressed General Obligation bonds not addressed Use of General Fund not addressed 	<ul style="list-style-type: none"> “A greenbelt or open space acquisition fund that would be paid for by all the people in Morgan Hill.” Cite either use of property tax, property transfer fee or a bond measure. (found that property transfer tax was not currently feasible.) A “detailed program for acquisition and funding of open space” is needed. 	<p>TDC in lieu fees and Open Space Authority fees would continue.</p> <p>Continue current City staff administration of TDC in lieu fees and Open Space Authority fees</p>	<p>Endorse the Advisory Committee recommendations with change of the third bullet to read:</p> <ul style="list-style-type: none"> Open Space mitigation program including an in lieu fee for new development should be considered;
12. SEQ land uses	<p>Area Plan to develop specific land uses within recommended framework of:</p> <ul style="list-style-type: none"> Industrial/Business Park: 200 +/- acres Commercial: 45 +/- acres Large Lot Residential (existing): 130 acres Parks, trails, creek corridors and scenic setbacks: 375 to 500 +/- acres Varying residential densities: 375 to 500 +/- acres <p>Use specific plans to refine the Area Plan and establish implementation rules and expectations</p>	No Area Plan; accommodate land for industrial park if Industrial Land Market Study indicates it is warranted.	<ul style="list-style-type: none"> Area Plan with increased acreage for urban uses and decreased open space. Use a series of specific plans with initial focus on industrial and commercial uses. 	<ul style="list-style-type: none"> No Area Plan; Area near Tennant/Highway 101 interchange would remain in the UGB with a Rural County land use designation. UGB amendments could be considered in future major General Plan updates 	<p>Defer planning for the SEQ until completion of the Industrial Land Market Study in 2005-06. As part of reviewing the ILMS:</p> <ul style="list-style-type: none"> assess the need to plan for a limited amount of future urban growth or to pursue planning for larger scale urban development in the SEQ, and decide whether addressing SEQ issues is appropriate as a separate set of actions or should be considered as part of the next major update of the General Plan.
13. Policy and Regulatory implementation assumptions outside the SEQ	<ul style="list-style-type: none"> Amendments to the City’s General Plan including modified Greenbelt Policies and Actions, Urban Limit Line Policies and Actions, modified Agricultural Policies and 	<ul style="list-style-type: none"> Issue not addressed but staff assumes that General Plan amendments will be in similar areas of the Plan as the Committee Recommendations. 	Not applicable	<ul style="list-style-type: none"> Assumption that Greenbelt Policies and Actions would be addressed in the next major General Plan update. 	Endorse the Advisory Committee recommendations.

Factor	Advisory Committee Recommendation	Kennett, Beasley and Tichinin Proposal	Southeast Quadrant Property Owners Recommendations	Reliance on the General Plan	Staff Recommendation
Factor 13 continued	<p>actions and site specific amendments identified below:</p> <ul style="list-style-type: none"> Amendments to the Urban Growth Boundary including adjustments to have the UGB be consistent with the City's open space planning, removing the area east of Malaguerra Avenue, removing a parcel on Water Avenue that would be very difficult to provide with sanitary sewer service and adding a 20-acre residential area west of Sunset Avenue. Work with Santa Clara County on modification of development review policies and procedures to minimize the visual impacts of future development in hillside areas. Develop a Greenbelt implementation program addressing staffing and resources 	<ul style="list-style-type: none"> Issue not addressed but staff assumes the same amendments as the Committee recommendations. Propose a more specific City-County agreement on hillside development rules and regulations. Implementation program not addressed 		<ul style="list-style-type: none"> UGB amendments would be considered in the next major General Plan update. City staff would work with Santa Clara County staff on unincorporated and especially hillside development regulations as part of current County staff study. No Greenbelt implementation program. 	
14. Policy and Regulatory implementation assumptions inside the SEQ	<ul style="list-style-type: none"> Prepare an Industrial Land Assessment Study that assesses the suitability of existing General Plan industrial land for meeting future needs. Prepare an Area Plan Strategy and Work Program Prepare an Area Plan. Use specific plans to refine the Area Plan and establish implementation rules and expectations 	<ul style="list-style-type: none"> Recommend doing the Industrial Land Assessment Study No Area Plan. However, prepare General Plan amendment if additional industrial park is needed as determined by the Industrial Land Market Analysis. 	<ul style="list-style-type: none"> Measure C amended to accelerate housing in the SEQ; Permit industrial/business park and commercial to move ahead and be timed to market conditions; Increase the size of the industrial or commercial areas and reduce open space requirements; Develop a detailed program for acquisition and funding of open space; Use a series of specific plans with emphasis on land uses that will be annexed first; and 	<p>Industrial Land Assessment Study could be undertaken in preparation for the next major General Plan update.</p>	<p>Defer planning for the SEQ until after completion of the Industrial Land Assessment Study in 2005-06. As part of reviewing the ILAS:</p> <ul style="list-style-type: none"> assess the need to plan for a limited amount of future urban growth or to pursue planning for larger scale urban development in the SEQ, and decide whether addressing SEQ issues is appropriate as a separate set of actions or should be considered as part of the next major update of the General Plan.

Factor	Advisory Committee Recommendation	Kennett, Beasley and Tichinin Proposal	Southeast Quadrant Property Owners Recommendations	Reliance on the General Plan	Staff Recommendation
Factor 14 continued			<ul style="list-style-type: none"> Clarify City and County development policies and regulations during any interim period prior to annexation 		
15. Site Specific issues					
15a. Edmundson, DeWitt and Sunset Site	Amend the General Plan and UGB to allow 20 acres west of Sunset to become Single Family Low Density Residential in exchange for committing about 85 hillside and hilltop acres to open space and having four residential sites developed in the County.	Not stated but staff assumes to be the same as the Committee recommendation.	Not applicable	General Plan amendments could be undertaken but UGB amendments would need to wait for the next major General Plan update.	Endorse the Advisory Committee recommendation.
15b. SEQ Industrial Park	Place a policy in the General Plan to have a future approximately 200 acre industrial park near the intersection of Tennant and Murphy Avenues	Not stated but staff assumes to be the same as the Committee recommendation.	Place the entire SEQ inside the ULL and either have industrial area larger than 200 acres or less open space land.	SEQ industrial park could be considered in next major General Plan update.	Defer until completion of the Industrial Land Assessment Study.
15c. El Toro	Adjust the UGB to be coterminous with the Urban Services Area.	Not stated but staff assumes to be the same as the Committee recommendation.	Not applicable	City Open Space policies would continue.	Endorse the Advisory Committee recommendation.
15d. Water Avenue site	Remove from the UGB one south sloping parcel.	Not stated but staff assumes to be the same as the Committee recommendation.	Not applicable	Amendment of UGB could be considered in next major General Plan update.	Endorse the Advisory Committee recommendation.
15e. Boy's Ranch area	Amend the UGB to exclude the area north of Malaguerra Avenue.	Not stated but staff assumes to be the same as the Committee recommendation.	Not applicable	Amendment of UGB could be considered in next major General Plan update.	Endorse the Advisory Committee recommendation.
15f. Open Space parcel west of Casino Real	Amend the UGB to remove about 20 acres that has an open space easement.	Not stated but staff assumes to be the same as the Committee recommendation.	Not applicable	Amendment of UGB could be considered in next major General Plan update.	Endorse the Advisory Committee recommendation.
15g. Vista De Lomas/Peebles Avenue area	Have a General Plan policy that the area inside the ULL should have parcels of about 2.5 acres when the area is annexed.	Area would be outside the ULL; no policy needed since future land uses would be regulated by the County.	Not applicable	Amendment of UGB could be considered in next major General Plan update.	Endorse the Advisory Committee recommendation.
15h. Kruse Ranch Lane site	Have a General Plan policy that development of four lots should be located in the site's lower elevations.	Not stated but staff assumes to be the same as the Committee recommendation.	Not applicable	Area would remain inside the UGB without a policy for location of future lots/housing sites.	Endorse the Advisory Committee recommendation.

URBAN LIMIT LINE / GREENBELT STUDY

III. RESPONSES TO WRITTEN LETTERS AND REQUESTS

At the April 20, 2005 City Council meeting, three letters were received regarding the Urban Limit Line/Greenbelt Study Final Advisory Committee Report. After receiving the letters and testimony, the Council directed staff to analyze the requests and provide recommendations for each of them. Subsequent to the April 20th meeting, three additional letters were received. Following is a summary of the requests contained in each of the six letters, and staff's responses and recommendations regarding each of them. The original letters are attached to this memo for Council reference.

LETTER FROM JEFFREY HARE REPRESENTING TRUSTEES OF NICK SR. AND JACKIE BORINA TRUST

Mr. Hare's letter is written on behalf of the Borina Trust that owns 5 acres of land at the intersection of Hill Road and Tennant Ave. in the area known as the Southeast Quadrant. Mr. Hare's letter raises three basic issues regarding the Advisory Committee's recommendations. A copy of that letter is attached as Attachment 1. The issues raised by Mr. Hare and staff's responses are discussed below.

Issue 1: Mr. Hare believes the Committee's recommendations "fail to recognize or address the inherent inconsistencies with existing regulatory requirements imposed by the County General Plan and LAFCO as well as the obvious limitations imposed by Measure C."

Staff Response to Issue 1: This issue was raised with respect to the Committee's recommendations for future development of the Southeast Quadrant area. Mr. Hare cites a letter September 2, 2004 from County Planning staff in support of his position.

The Committee's recommendations call for the entire area to become part of the City. It is not necessary that a plan that the City would prepare be consistent with the County General Plan. The plan would address land use policy for the time that the area would become part of the City of Morgan Hill. An area plan for the SEQ would not become effective until such time at it is annexed (and subject to City General Plan and zoning regulations). The letter from County Planning staff correctly states that "If LAFCO grants approval ..., those actions will be based solely on LAFCO's adopted goals and policies, which may include consideration of the County General Plan. However, the County General Plan is not (emphasis added) the primary basis for LAFCO determinations."

There was much discussion by the Committee regarding the effect of Measure C on the timing of future residential development in the Southeast Quadrant. The Southeast Quadrant property owners requested that Measure C be amended to allow for residential development sooner than presently allowed. The full Committee included within its final recommendations a requirement that the Area Plan for the Southeast Quadrant include "Detailed economic analysis, including assessing the economic impacts of various City development requirements and the impact of development time frames including Measure C."

Issue 2: Mr. Hare believes the plan for open spaces in the Southeast Quadrant would financially impose an "unacceptable burden that goes beyond the limits permitted by both the California and United States Constitutions."

Staff Response to Issue 2: The Committee discussed this matter extensively and agreed that provision of open space must be reasonable (and legal). The Committee's recommendations that address this topic include the following:

- "The burden of future City open space development requirements should be at a level where it is financially viable to develop land."
- "Whenever a specific property is designated for open space, a realistic and economically viable funding mechanism needs to be identified."
- "It is recommended that public improvements that benefit the entire community be funded by citywide revenue sources and not be the sole responsibility of the Southeast Quadrant."

Issue 3: Mr. Hare believes the time period which must pass before SEQ property owners would be able to develop their properties under the proposed plan is excessive. The lack of specificity in the Committee's recommendations regarding funding of open space and addressing regulatory issues would exacerbate the situation and "extend the already unacceptable delays faced by the property owners – in effect imposing an almost permanent moratorium on their ability to develop their property."

Staff Response to Issue 3: The recommendations of the Advisory Committee would not become effective on unincorporated property until such time as local land use and zoning designations are designated for the lands, and the lands are annexed to the City. Until that time, use and development of unincorporated property is subject to County land use regulations. Owners are free to utilize and develop their properties pursuant to County regulations until annexation occurs. No moratorium or taking of property rights has occurred or is proposed.

LETTER FROM ANDREW FABER REPRESENTING KEVEN AND CHARLENE LAI

Mr. Faber's letter is written on behalf of the Lai's, who own the 12.1 acre property located on the west side of Hale Ave. just north of Tilton Ave. A copy of his letter is attached as Attachment 2. The Advisory Committee is not recommending the Lai property be included within the Urban Limit Line. Mr. Faber requests the City Council take one of two actions regarding his client's property. Those requests and staff's response are discussed below.

Request 1: Mr. Faber requests that the Lai property be included within the Urban Limit Line. He includes seven reasons in support of this position, which generally address the development potential of the Lai property and the extent of development in the immediate area.

Staff Response to Request 1: Mr. Faber made his request to the Advisory Committee at its March 14th meeting. The Committee did not support the request. Staff concurs with the Committee's position. The Committee made a conscious decision to exclude from the Urban Limit Line areas that are substantially developed. The Lai property is located in such an area. This area, which is bounded by the City's sphere of influence on the north, Tilton on the south, Dougherty on the east, and Baird Ranch on the west contains 27 parcels. All but 8 of those parcels are developed. Houses are situated on most of the developed parcels, which limits future subdivision potential. The northerly extension of City services into an unserved area with limited development potential, and which is adjacent to the Coyote Valley Greenbelt, would not represent an efficient use of City resources or extension of infrastructure. A map showing the location of the Lai property is attached to this memo.

Request 2: Mr. Faber requests that, should the Council not honor his client's first request, the definition of Urban Limit Line be amended to allow for changes to the location of the Line in the future.

Staff Response to Request 2: The primary intent of the Urban Limit Line is to identify the boundary between rural and urban land. The Line is intended to distinguish between lands which may be needed for future urbanization, and lands which are to remain unincorporated, non-urban, rural and/or "greenbelt". Where greenbelt properties are identified for protection from urbanization through public acquisition or by applying a conservation easement, the adjacent ULL will be permanent. Otherwise, the definition of Urban Limit Line that is recommended by staff will recognize the possibility that a future City Council may amend the Line.

Not all areas outside of the ULL are proposed to be part of the greenbelt. The Advisory Committee recognized that there are several areas outside the ULL where the predominant parcel size is less than 10 acres, and a majority of the parcels are developed with single-family homes. Although these areas were not determined to be needed for future urbanization, the Committee felt that the relatively small parcel sizes and the number of existing homes in these areas would make their inclusion within the greenbelt financially and visually impractical. The property owned by Mr. Lai is in one of these areas.

As mentioned above, for areas where the Urban Limit Line is adjacent to greenbelt areas, and the greenbelt areas are proposed for acquisition or easements, the ULL should be considered to be a permanent line. In other areas, it is not critical that the location of the ULL be considered permanent. Staff is recommending that the definition of the ULL read as follows:

The Urban Limit Line (ULL) separates urban and future urban areas from rural areas. The ULL is a longer-term version of the Urban Growth Boundary (UGB) and is intended to ~~be~~ permanent to reflect the City's long-term policy for growth of Morgan Hill, beyond the twenty-year timeframe of the UGB. The purpose of an ULL is to encourage more efficient growth patterns, minimize public costs, and protect environmental resources. Some, but not all, of the land outside the ULL has been designated as Greenbelt.

LETTER FROM STEVE WHITE, PRESIDENT, ANCHORPOINT CHRISTIAN SCHOOLS

Mr. White's letter is written regarding a portion of the 117 acres owned by Anchorpoint Christian Schools, located west of Community Park and east of DeWitt Avenue. All of the property owned by Anchorpoint is outside of the city limits. Under County regulations, the property could be developed with approximately 12 homes. If Anchorpoint were to sell those parcels, it is reasonable to assume that the houses constructed on them would be located so as to offer the most benefit to the property owners. This may include construction of houses in prominent hill-top locations where the views could be maximized, but where the houses would be the most visually obtrusive.

Throughout the course of developing its recommendations, the Advisory Committee considered the disposition of the Anchorpoint property several times. In order to avoid the potential impacts associated with development of the property under County regulations, the Committee recommends amending the Urban Growth Boundary to include 20 acres of the property, adjacent to Sunset Road, for future annexation and urban development. The Committee also recommends allowing four homes

to be developed on existing 10 +/- acre parcels on Edmundson. The 40 +/- acres on which these four homes would be built would not be annexed and the homes would be built under County regulations. However, open space easements would be recorded over these four parcels to ensure that the homes are not developed on ridgelines and that 80 percent of the acreage of each parcel remains undeveloped. Twenty-eight acres owned by Anchorpoint, located on DeWitt Ave. is recommended by the Advisory Committee to have an open space easement recorded over it that would preclude its development.

Request: Mr. White's request is that Anchorpoint be allowed to build one home on the 28-acre area in such a location as to not be visible from DeWitt Ave. This proposal would require an exchange of property between Anchorpoint and the City. Mr. White further proposes that the exchange of property and construction of one house be conditioned on other benefits to the City, such as upgrading and maintaining access to the City's water reservoir and public access to the peak east of the reservoir. A copy of Mr. White's letter is attached as Attachment 3.

Staff Response: Staff believes Mr. White's request to be reasonable. Construction of a house in a location that would not be visible from DeWitt would address appear to address the concerns of the Advisory Committee which caused it to recommend the 28-acre area not be developed. Further, staff is unaware of any other situation in the City in which property that is not adjacent to and part of a larger development has been required to remain undeveloped and maintained by a property owner. Discussion with Public Works staff suggests, conceptually, that an exchange of property may be feasible. There are at least two other locations in the City where a City reservoir is accessed across private property. Staff recommends acceptance of the revised language proposed by Mr. White that would potentially allow for development of one home on the DeWitt property.

LETTER FROM GARY JUSTINO, PROPERTY OWNER

Mr. Justino is writing on behalf of his family, which owns three parcels that are located adjacent to but outside of the Urban Growth Boundary. One of the parcels is 9 acres in size and is located on the north side of Diana Avenue just west of Hill Road. The other two contiguous parcels total 20 acres in size and are located at the northeast corner of Tennant and Murphy Avenues. A copy of Mr. Justino's letter is attached as Attachment 4.

Request: Mr. Justino requests that the three parcels be included within the proposed Urban Limit Line. He believes urban development of the parcels is appropriate because farming of them has become infeasible.

Staff Response: The Advisory Committee recommends the Diana Ave. property be included within the ULL. The Committee further recommends that the parcels at Tennant and Murphy be part of a future Area Plan which would presumably result in their inclusion within the ULL. No action is necessary on this request.

LETTER FROM BART HECHTMAN REPRESENTING ANCHORPOINT CHRISTIAN SCHOOLS AND MS. BETHANY LIOU

Mr. Hechtman's letter is written on behalf of Anchorpoint Christian Schools and Ms. Bethany Liou who is in contract to purchase the Anchorpoint properties. A copy of his letter is attached as Attachment 5. The property is located west of Community Park and east of DeWitt Ave. This letter is

intended to supplement the letter from Mr. Steve White, submitted at the April 20, 2005 Council meeting and discussed above. In his letter, Mr. Hechtman makes three requests. Those requests and staff's responses are discussed below.

Request 1: Mr. Hechtman requests that the Council allow for additional investigation regarding the feasibility of construction of one home on the DeWitt Ave. portion of the property in a manner which would meet the objectives of the Advisory Committee. This is the same request made by Mr. White in his letter.

Staff Response to Request 1: Staff recommends that the request be granted and that additional investigation into the feasibility of locating a house in this area is appropriate. See response to letter from Mr. White, above, for additional information.

Request 2: Anchorpoint owns four parcels, totaling 41 acres, on Sunset Road. The Advisory Committee recommends that portions of each of these four parcels totalling 20 acres be included in the ULL, UGB, and planned for residential development. Mr. Hechtman believes that County regulations and LAFCO policy would preclude annexation of portions of each of the four parcels and that the total 41 acres would need to be annexed. He requests staff be provided the opportunity to further investigate this matter and, if necessary, allow for annexation of the entire 41 acres, designating 20 acres for residential development and the remaining 21 acres for open space.

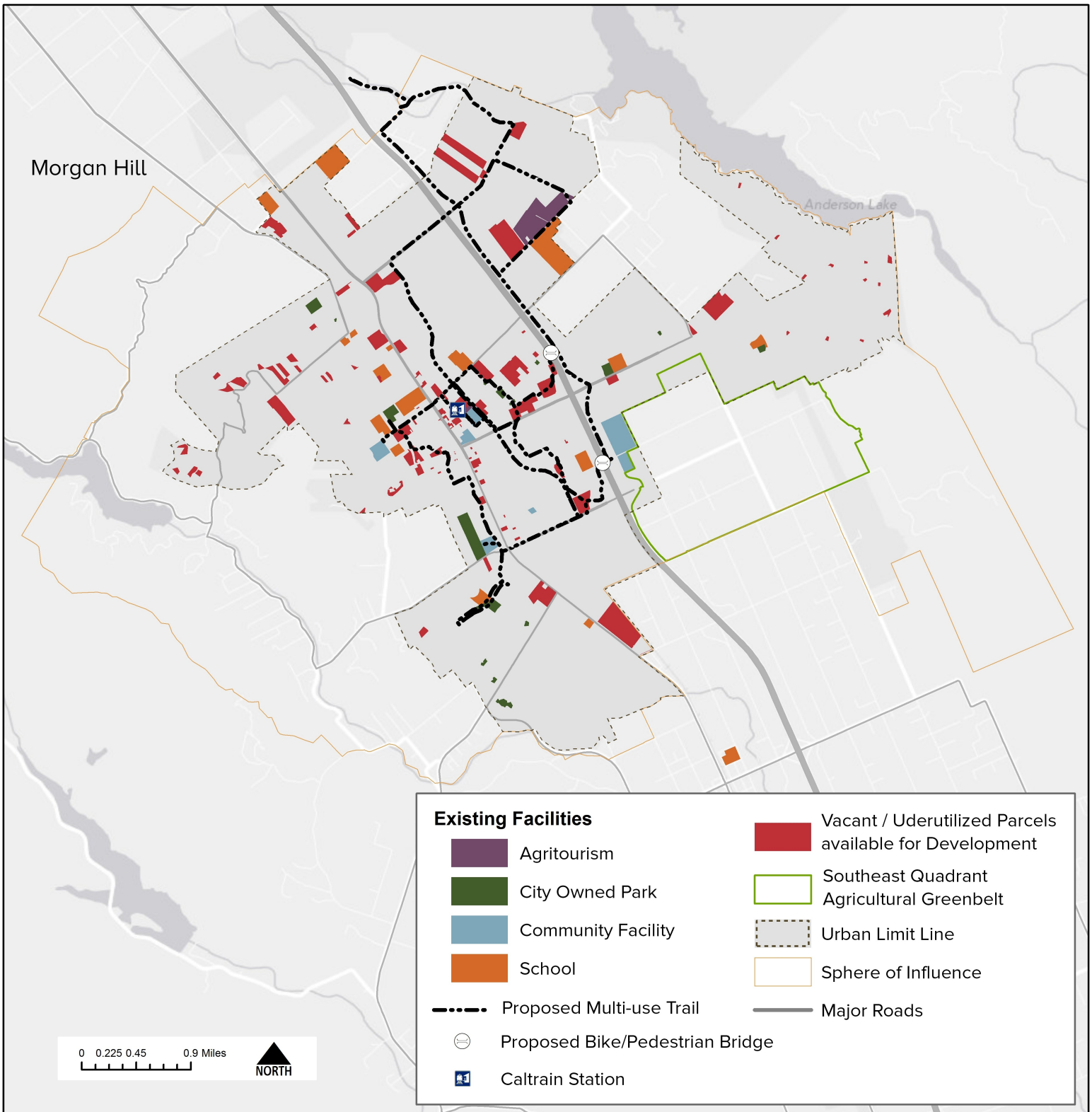
Staff Response to Request 2: Staff supports the request. Should additional review of County and LAFCO regulations support Mr. Hechtman's findings, annexation of the entire 41 acres with an open space easement covering the 21 acres which were not intended for development would appear to be consistent with the intent of the Advisory Committee.

Request 3: The Anchorpoint property totals 117 acres. In exchange for including 20 acres within the City's ULL and UGB, the Advisory Committee and Anchorpoint agreed to record open space easements over 87 of the remaining 97 acres in order to protect the scenic qualities of the property. The Advisory Committee's recommendations do not address the disposition of the easements should LAFCO not allow the 20 acres to be annexed to the City. Mr. Hechtman requests that Anchorpoint and Ms. Liou be allowed to terminate the easements should that occur and the 20 acres removed from the ULL and UGB.

Staff Response to Request 3: Staff supports the request. The agreement between the Advisory Committee and property owner was based on benefits that would accrue to both the City and Anchorpoint. If LAFCO does not approve annexation of the 20 acres and it is removed from the ULL and UGB, the property owner would receive no benefit in exchange for the easements.

LETTER FROM ART PULIAFICO, PROPERTY OWNER and ADVISORY COMMITTEE MEMBER

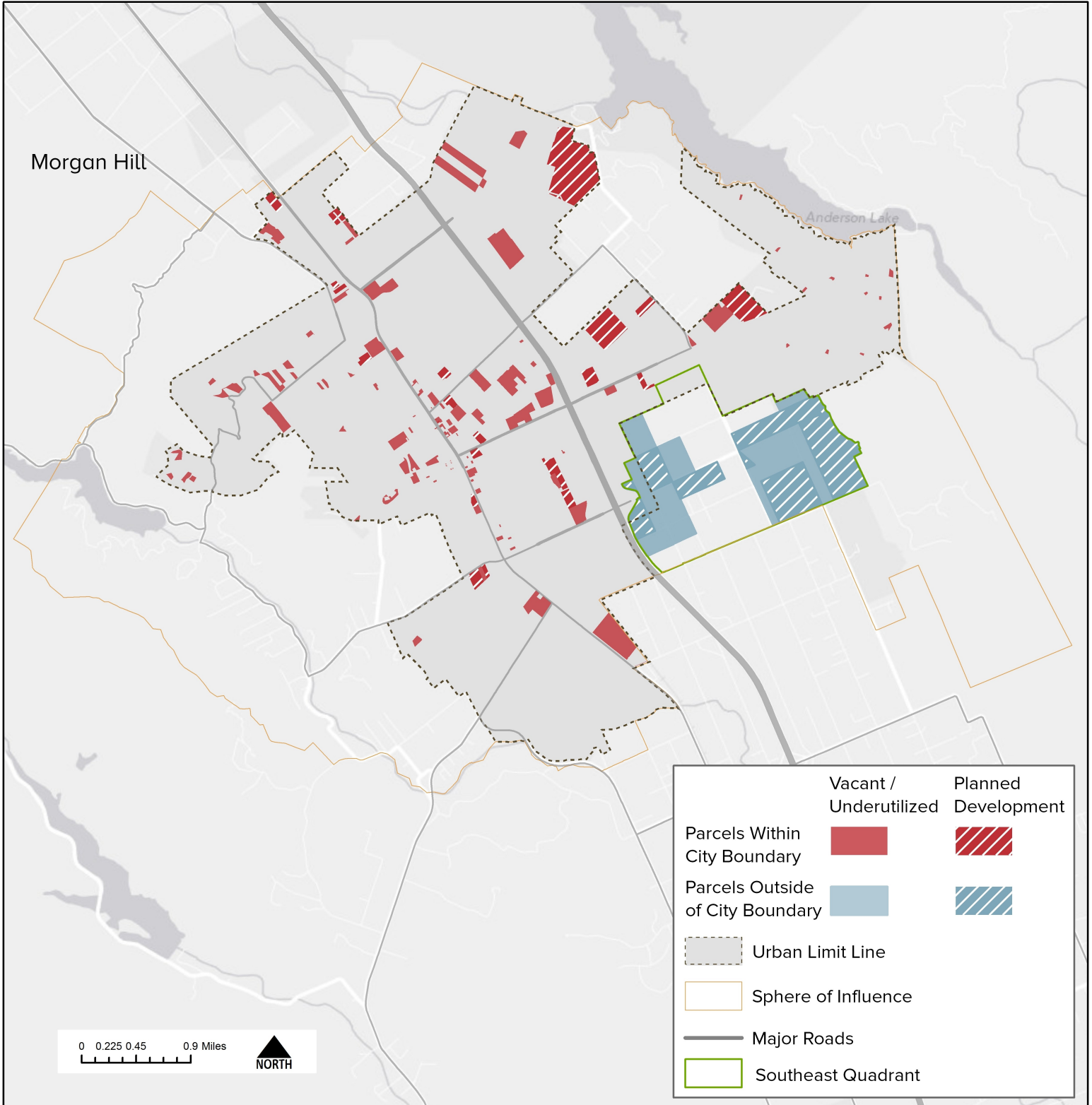
Mr. Puliafico's letter is written in reference to the Kennett/Beasley/Tichinin proposal. Mr. Puliafico urges the City Council not to accept the KBT proposal and endorse the recommendations of the Advisory Committee, including the comments contained in the Minority Report. A copy of his letter is attached as Attachment 6. No specific requests are contained in the letter which require staff response or recommendation.



Morgan Hill's admirable commitment to recreation in pursuit of an active and healthy community does not need to come at the expense of local agriculture. Here we envision an alternative to the Southeast Quadrant Land Use Plan in which recreation facilities are built within the existing city limits on vacant or underutilized land and the Southeast Quadrant remains an agricultural greenbelt. A multi-use trail system connects recreation facilities to existing schools, parks, trails, and community spaces, and to the downtown Caltrain station. Integrating recreation facilities into the city of Morgan Hill in a way that encourages fitness and the use of public transportation is preferable to a plan that requires residents to drive to facilities on the outskirts of town.

The proposed trail system is based on existing and proposed bike paths from Morgan Hill's 2008 Bikeways Master Plan Update. Existing Facilities Data is from the 2008 Bikeways Master Plan Update. Vacant / Underutilized Parcel Data is from Morgan Hill's Housing Element Appendix F. Full Available Land Inventory List, September 2010 and the General Plan Advisory Committee's Growth Alternatives.

PARCELS AVAILABLE FOR DEVELOPMENT IN MORGAN HILL

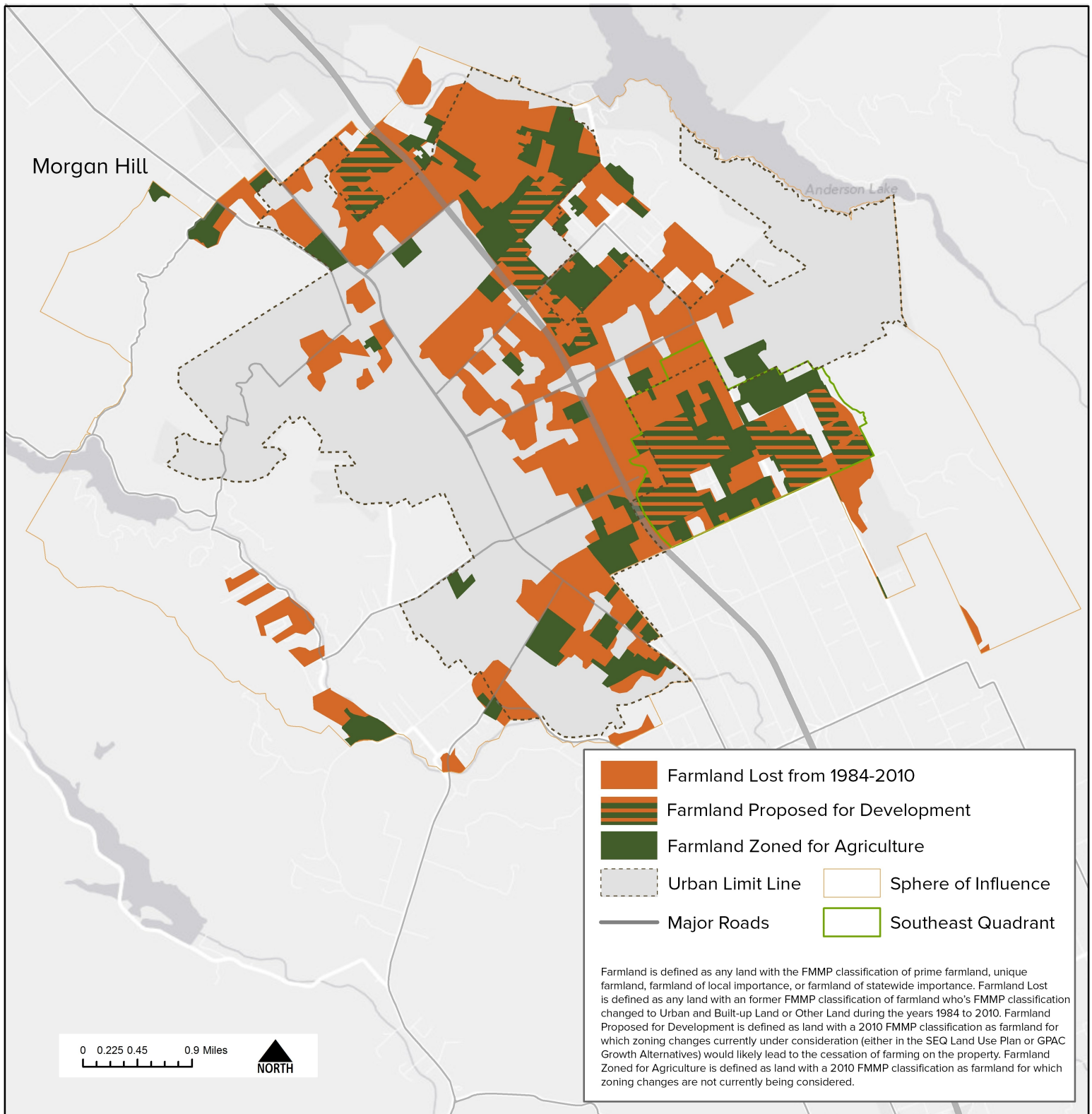


The EIR claims that the City of Morgan Hill has determined that no other feasible locations exist for the project applications, yet there are currently over 365 acres of vacant and underutilized land within the city limits of Morgan Hill of which 227 acres have no planned or entitled development.

Vacant/Underutilized parcels outside of the City Boundary reflects parcels who's zoning would change under the proposed SEQ land use plan to allow for more development.

Vacant and Underutilized parcel data within City Boundaries from Morgan Hill Housing Element Appendix F: Full Available Land Inventory List, September 2010. Planned Development data from the General Plan Advisory Committee's Growth Alternatives, Morgan Hill's Downtown Development Plan, and the Draft Environmental Impact Report Citywide Agriculture Preservation Program and Southeast Quadrant Land Use Plan.

LOSS OF FARMLAND IN MORGAN HILL



From 1984 to 2010 Morgan Hill has lost roughly 3,790 acres of farmland to urban and low-density urban development. The EIR claims that the Citywide Agriculture Preservation Program and Southeast Quadrant Land Use Plan shows Morgan Hill's commitment to the long-term preservation of agriculture, yet the plan will result in the annexation of 759 acres of land with predominantly A-20 "Exclusive Agriculture" zoning and change the zoning to "Sports-Recreation-Leisure," "Residential Estate," and "Open Space" zoning, all of which allow for some level of development. Programmatic land use changes will convert a minimum of 120 acres of Important Farmland in the SEQ to non-agricultural use. Given the history of sprawl in Morgan Hill and the vague development plans for the SEQ, it is likely that this land use plan will cripple the long term viability of local farming due to the annexation and fragmentation of farmland.

San Jose Office
111 W. St. John St., Suite 420
San Jose, CA 95113
(408) 983-0856

February 18, 2014

Rebecca Tolentino, Senior Planner
City of Morgan Hill
Planning Division/Development Services Center
17575 Peak Avenue
Morgan Hill, CA 95037

RE: Draft Environmental Impact Report for Morgan Hill's South East
Quadrant and the Agricultural Lands Preservation Program

Dear Ms. Tolentino,

Greenbelt Alliance appreciates the opportunity to comment on the South East Quadrant (SEQ) Draft Environmental Impact Report (DEIR) and Agricultural Lands Preservation Program. Greenbelt Alliance is the champion of the places that make the Bay Area special. We bring people together to ensure the right development happens in the right place. For over fifty years, we have worked to protect wildlife habitat and working farms from poorly planned development. At the same time, we support sustainable urban infill within cities and towns.

Greenbelt Alliance has been following the SEQ proposals for over a decade, ever since we sat on Morgan Hill's Urban Limit Line/ Greenbelt Study. The goal of that Study was to determine the City's ultimate development/planning boundary and identify a permanent greenbelt and the funding mechanisms necessary to preserve it.

Brief History of the SEQ

In 2005, the Urban Limit Line/ Greenbelt Study Advisory Committee (GSAC) crafted a definition of an Urban Limit Line (ULL) as "a longer-term version of the Urban Growth Boundary (UGB) intended to reflect the City's long term policy for growth of Morgan Hill, beyond the twenty-year timeframe of the UGB. The purpose of an ULL is to encourage more efficient growth patterns, minimize public costs, and protect environmental resources."¹

¹ City Council Staff Report, Meeting Date 6/22/2005, Attachment A

As the GSAC had several SEQ landowners on its roster, an effort evolved to include the SEQ within the ULL. Both the Advisory Committee and the SEQ property owners recommended an Area Plan for the SEQ that would determine urban development. The property owners suggested amending Measure C “to provide for an additional allocation of housing units for the SEQ to accelerate urban development.”² The GSAC suggested the following land uses for the SEQ:

- Industrial/Business Park: 200 +/- acres
- Commercial: 45 +/- acres
- Large Lot Residential (existing): 130 acres
- Parks, trails, creek corridors and scenic setbacks: 375 to 500 +/- acres
- Varying residential densities: 375 to 500 +/- acres

The proposal to include so much land within the ULL and potentially fast track development was contentious to say the least. In addition to the GSAC and SEQ property owner’s recommendation, there was the Staff Recommendation and a Minority Report from three GSAC members, also known as the KBT Proposal, which called for a tighter ULL, no area plan, and possibly some acreage for an industrial park if the Industrial Land Market Study (ILMS) called for it.³

In June 2005, the City Council voted to approve a ULL everywhere in Morgan Hill with the exception of the SEQ, whose future depended on the results of the ILMS. In 2006, the ILMS indicated that the City of Morgan Hill had more than enough land (several decades) to accommodate industrial growth within city limits and therefore did not need the SEQ.

Soon after, the idea for a Sports-Recreation-Leisure (SRL) zoning designation was raised as a way to not only capitalize on Morgan Hill’s abundant natural amenities and desire to become a regional recreational destination, but also to persuade the Local Agency Formation Commission (LAFCO) to allow annexation of portions of the SEQ sooner rather than later. The City could demonstrate that they do not have adequate lands within city limits to allow for more sporting and recreational uses and therefore SEQ lands would need to be annexed (2-43).

An Alternate Vision

Morgan Hill is blessed with open space treasures, from Henry Coe State Park and El Toro Mountain to Coyote Creek and Andy’s Orchard. The City has invested in the Morgan Hill Outdoor Sports Center, the

² City Council Staff Report, Meeting Date 6/22/2005, Attachment A

³ City Council Staff Report, Meeting Date 6/22/2005, Attachment A

Aquatics Center, the Skateboard Park and the Community and Cultural Center. Greenbelt Alliance notes that Morgan Hill is already a recreational destination.

At the same time, Morgan Hill residents have stated through two General Plan updates and several events held by Greenbelt Alliance and Committee for Green Foothills that preserving local farmland is an important part of the community's identity and effort must be made to preserve agriculture. We argue that Morgan Hill can have the best of both worlds: more homes, jobs and shops surrounded by a greenbelt of open spaces, including working farms, linked together by trails and bike paths that ensure equitable access to the City's many existing recreational destinations. Please see Greenbelt Alliance Map: Greenbelt Alliance Alternative to SEQ (Attachment B) and Greenbelt Alliance Map: Available Parcels (Attachment C).

SEQ Draft Environmental Impact Report

Greenbelt Alliance has reviewed the DEIR and we have several overarching concerns, which we will outline below. The DEIR's purpose is to inform the public and decision-makers of the environmental consequences of their decisions before they are made and to "tell the whole truth" and support the truth with facts and evidence. The SEQ DEIR bundles too many projects and programs within one document:

- Four boundary changes: city limits, urban service area, urban growth boundary and urban limit line
- A new zoning designation, Sports-Recreation-Leisure (SRL)
- An Agricultural Lands Preservation Program (ALPP)
- South County Catholic High School
- Four projects proposed by four different land owners
- City General Plan and zoning amendments

This leaves the public and decision-makers with a document that attempts to do a lot, but presents very little real information from which to make an informed decision. The DEIR is too vague, failing to go into sufficient detail about the projects that will be built in the SEQ or what the environmental impacts of those projects would be. If a DEIR is unable to evaluate the potential environmental impacts of a project then it fails in its purpose.

"The SEQ Area includes four programmatic land use projects and several city-initiated General Plan Amendments. No detailed land use plans are available at the time of this writing, nor is there a schedule for submittal of any detailed plans. Because of the programmatic nature of the SEQ Area, evaluating construction fugitive dust emissions and localized CO emissions would be premature." (3.3-44) This statement is repeated several times in relation to other environmental impacts. Why are four vague projects included within this DEIR when there is little to no information on them? Is the goal to

ignore orderly planning boundaries and jump ahead to annexation so as to avoid County zoning and LAFCO requirements?

Vague projects are proposed on farmland that would be annexed into city limits. How can anyone make an informed decision as to the environmental impacts of such a development? A large sports-retail complex could be surrounded by surface parking. There are significant environmental impacts associated with such a use, but with this DEIR, it would be a guess. The DEIR fails on this point.

DEIR Project Description is Inadequate

The Project Description is the foundation for the entire document and we find it to be inadequate. The first three objectives of the proposed project all deal with identifying lands and developing a program for the preservation of agriculture. (2-26) In fact, it is repeatedly stated throughout the document that protecting local farmland is a high priority. The Agricultural Priority Area is a narrow strip of land that will be surrounded by the City of Morgan Hill on three sides. But as stated later in this letter, the Agriculture Lands Preservation Program fails to adequately protect this land.

As recent history indicates, Morgan Hill has a reputation for placing urban land uses immediately adjacent to farmland, creating illogical boundaries that later set the stage for compliance with the City's Desirable Infill Policy. Naturally, this significantly impacts the viability of local farming.

In October 2013, LAFCO approved an expansion of Morgan Hill's Urban Service Area (USA) along Monterey Road/ south of Watsonville Road, which included farmland. Morgan Hill Mayor Steve Tate claimed in a letter to LAFCO that the USA expansion "represents a logical, orderly and efficient extension of the city's boundaries as it eliminates an existing unincorporated peninsula and regularizes the city's boundaries."⁴ The Mayor's letter goes on to state, "It is inappropriate to speculate at this time what the possible implications could be for a future, unknown expansion request."

The City and LAFCO are well aware that the "future, unknown expansion request" is for portions of the SEQ. The DEIR Project Description fails to discuss how surrounding the 650-acre Agricultural Priority Area with non-agricultural land uses could place the long-term viability of farmland at risk. The City can claim down the road that annexing this island of farmland represents "a logical, orderly and efficient" extension of the city's boundaries, especially if its own land use decisions have made farming infeasible.

At the same time, while the Project Description discusses multiple text amendments to the General Plan, it fails to mention that the City of Morgan Hill is currently in the midst of a General Plan update.

⁴ Letter from Morgan Hill Mayor Steve Tate to LAFCO, dated 9/30/2103

This is perhaps one of the most egregious parts of the DEIR, especially as the General Plan Advisory Committee (GPAC), tasked with updating the City's General Plan, is in the dark when it comes to the SEQ. The City of Morgan Hill should include the fate of the SEQ as part of the GP update which was staff's original intention during the ULL/Greenbelt Study.

Among the General Plan (GP) text amendments is language giving special treatment to the Chiala property which would be annexed into the City, but outside the Urban Service Area. While the Chiala project proposes its own water and septic system, it would still depend on other urban services, such as police protection. Another GP text amendment also fast-tracks annexation and development of uses whose "unique size and location requirements" cannot be met within existing city limits (2-43).

It is irresponsible and inappropriate to be making GP text amendments and boundary changes while the General Plan is being updated. To say that the community has vetted SEQ plans; that significant community outreach has been done, is misleading. If that were the case, then why has the GPAC been forbidden to discuss the future of nearly 1,300 acres of greenbelt and working farms?

Also, the Project Description fails to discuss how private education, commercial SRL uses, and other uses are complementary to the preservation of agriculture. The SRL definition allows a wide range of uses and includes, almost as an afterthought, the additional goal to support local agriculture. How will this be done? What are the locally produced goods the SRL definition refers to? Indoor/outdoor sports centers, gas stations, drive-through restaurants and motels are some of the uses allowed in SRL. It is unclear how a gas station or batting cage is complementary to working farms? Please explain.

The Project Description completely fails in its task and therefore the DEIR is woefully inadequate and needs to be re-written and re-circulated.

Impacts to Agricultural Resources

It is interesting to note that the permanent loss of agricultural land is not listed under Significant Unavoidable Adverse Impacts (ES-5- ES-6). The DEIR states that participation in the City's Agricultural Lands Preservation Program (ALPP) is sufficient to reduce this to a Less than Significant Impact. The ALPP encourages a mitigation rate of 1:1, which means there is still a net loss of farmland. The DEIR fails to see this as a Significant Unavoidable Adverse Impact.

In fact, the ALPP will neither adequately protect nor mitigate the loss of farmland and the proposed project would result in the direct conversion of prime farmland, unique farmland, and farmland of statewide importance to nonagricultural uses and would increase development pressure on other properties in the SEQ. As depicted in Greenbelt Alliance Map Loss of Farmland (Attachment D), Morgan Hill has lost 3,790 acres of farmland since 1984 and is creating new islands of farmland. This is a

Significant Unavoidable Impact that can be mitigated by pursuing an alternate vision for sports-recreation-leisure uses (see Attachment B).

Impact AG-2 states that “the proposed project would not conflict with existing zoning for agricultural use.” (ES-13) The Santa Clara County General Plan designates the majority of the SEQ Area as Agriculture Medium Scale, which requires a minimum parcel area of no less than 20 acres, and allows agriculture, ancillary agricultural uses, and land uses necessary to directly support local agriculture. (2-8). The City of Morgan Hill proposes annexing 759 acres of these agricultural lands and changing the zoning designation. Please explain how a zoning change from Exclusive Agriculture [A-20] to Sports-Recreation-Leisure, Public Facilities, Residential Estate, or Open Space zoning does not constitute a “conflict with existing zoning for agricultural use”?

At the same time, Impact AG-3 states that “the proposed project would not cause changes in the existing environment that result in the conversion of Important Farmland to non-agricultural use.” The proposed project calls for the re-zoning and development of farmland, locates conflicting uses near farmland and creates an island of farmland at future risk of annexation as seen in the recent USA expansion of farmland at Watsonville/ Monterey roads. It is the project’s intent to cause change to the existing environment which will lead to the net loss of farmland. How can the DEIR claim there is no change? This DEIR fails to adequately define the impacts to agricultural lands.

Agricultural Lands Preservation Program

While the ALPP seems to set the stage for the demise of large-scale farming, consultants hired by the City of Morgan Hill have demonstrated that small-scale agriculture is viable within the SOI “if land use tools are used effectively.” The report goes on to state that speculative influences have led to the relatively high cost of land. The City of Morgan Hill has played a role in this speculation by pursuing an Urban Limit Line and leaving the SEQ in limbo for years. Clear planning boundaries that delineate where development will and will not go reflect the true cost of land. However, Morgan Hill has been sending signals that greenbelt lands are in line for some type of urban development, leading to land speculation.

The Program describes Prime Farmland differently than LAFCO, which uses the Cortese Knox Hertzberg Act definition. Perhaps the biggest difference is that LAFCO does not require irrigation, as long as irrigation of the land is feasible, to define Prime Farmland. Morgan Hill’s definition states that “land must have been used for irrigated agricultural production at some time during the four years prior to the (California Department of Conservation) mapping date.” This is a big loophole that gives permission to land owners to leave land fallow in order to avoid triggering mitigation. The end result is the same: loss of Prime Farmland.

One of our biggest issues with this Program is contained within this statement on page 4: "Agricultural mitigation requirements, whether through land dedications or mitigation fees, result in additional cost to any development that converts agricultural land. In combination with other agricultural land preservation policies, these mitigation requirements increase the costs to new development and could create feasibility challenges."

The point is to make the true cost of paving farmland apparent, yet the program is set up with the goal of not making new development cost-prohibitive. How is this an Agricultural Lands Preservation Program when the focus is more on the feasibility of development than the feasibility of agriculture?

Our second issue is with Morgan Hill's claim that the ALPP is on a 1:1 basis and that the SEQ's Agricultural Priority Area is the preferred location for preservation. If the cost to preserve agricultural land through fee simple purchase ranges from \$50,000 to \$80,000 per acre in Morgan Hill and the unit cost of agricultural land preservation through easement acquisition ranges from \$30,000 to \$48,000 per acre within Morgan Hill's Sphere of Influence (SOI), why is the in-lieu fee set at \$15,000 per acre? This is clearly not a 1:1 Program, but a 1:0.5 at least. With an in-lieu fee option, developers will choose this route as it is more affordable. However, it is clear that it will not adequately protect farmland within Morgan Hill's SOI at a 1:1 rate. The DEIR claims that impacts to agricultural land are reduced to a less than significant impact due to the ALPP, but this is false. The DEIR fails to craft an adequate mitigation to a significant impact.

Conclusion

Morgan Hill is a recreational destination that can be enhanced by effectively using vacant or under-utilized parcels within city limits to accommodate a citywide bike path and trail program. The SEQ can become a small-scale agriculture destination, taking advantage of local food movements, including the Santa Clara County Food System Alliance. If the City of Morgan Hill is committed to preserving local farmland as many of the DEIR project objectives state (and what the community has repeatedly stated they want), then the current path laid out in the DEIR will not get us there. Ultimately, the majority of SEQ lands should be outside the ULL, to create an effective greenbelt buffer, and a citywide commitment to promoting the success of local farmland must be initiated and prioritized.

Greenbelt Alliance appreciates the opportunity to comment on the SEQ DEIR and ALPP and requests we are kept informed of the process and projects as they move forward.

Sincerely,



Michele Beasley
Regional Director

February 18, 2014

Via Email (rtolentino@morganhill.ca.gov) and First Class Mail

Rebecca Tolentino
Senior Planner
Development Services Center
17575 Peak Ave.
Morgan Hill, CA 95037

Re: Draft Environmental Impact Report, Citywide Agriculture Preservation Program and
Southeast Quadrant Land Use Plan, State Clearinghouse No. 2010102010 (“**DEIR**”)

Dear Rebecca:

On behalf of the South County Catholic High School Committee (the “High School”), we are writing to you with regard to the referenced DEIR. As you know the DEIR is intended to serve as a California Environmental Quality Act (“CEQA”) Project Level environmental analysis for the phased construction of the proposed private Catholic high school (the “Project”) on approximately 38 acres of property owned or under contract by the Catholic Diocese of San Jose (the “Property”). The Property is currently located outside of city limits but within Santa Clara County and what is commonly referred to as the Southeast Quadrant.

We have reviewed the DEIR and offer the following comments, requests and recommendations for your consideration. As always we are available to discuss the following and look forward to working with you and other City staff as the DEIR moves forward and through the Planning Commission and City Council.

Comment No. 1: Phased Project

As you know, it is the intent of the High School to construct the Project in three (3) phases. The first phase is intended to accommodate approximately 600 students and will include construction of at least the Classrooms, the Multipurpose Building, and the Administrative Building (“Phase I”). The second phase is intended to accommodate approximately 600 more students. (“Phase II”). The third phase is intended to accommodate approximately 300 additional students (“Phase III”). The Chapel, Gymnasium, Performing Arts Center, Pool, Soccer, Football, and Baseball fields are considered Donor Phases and will be constructed as funds are raised. Assuming the DEIR is processed and approved as proposed by the City and that the entitlements necessary for construction of the Project are processed and approved in a timely manner, it the High School’s goal to open Phase I of the Project in 2017, Phase II of the Project in 2030, and Phase III of the Project in 2047. The phasing

plan, both construction of improvements and the number of students attending the school, may change. The High School fully understands, however, that the mitigation measures related to the impacts resulting from construction of each phase will be required when each phase is completed.

The DEIR includes multiple mitigation measures which are intended to fully mitigate the limited impacts on the environment resulting from complete construction of the Project. Several of the potential impacts, however, result only upon completion of Phase II or Phase III of the Project. With that in mind, the High School requests that the following mitigation measures be revised to reflect the phased nature of the Project, and more specifically that the mitigation measures only be required at such time as the potential impacts are projected to occur rather than earlier phases when no potential impacts are projected.

1. MM AES-3. Please consider revising this Mitigation Measure to permit multiple outdoor lighting plans covering only those outdoor improvements proposed by the High School at the time each development application is submitted for review and approval by the City. The High School will not be in a position to provide outdoor lighting plans for future phases of the Project. We understand, however, that all outdoor lighting must be designed and constructed in accordance with this Mitigation Measure and agree to comply with the terms of this Mitigation Measure as each Phase of the Project is constructed.
2. MM HYD-1a. Please consider revising this Mitigation Measure to permit multiple Stormwater Pollution Prevention Plans rather than one for the entire site concurrent with an application for Phase I of the Project.
3. MM PSR-2. Please consider revising this Mitigation Measure to provide for submission of multiple security plans concurrent with each Phase of the Project.
4. MM TRANS-3. Please consider revising this Mitigation Measure to allow for preparation and submission of one or more Transportation Demand Management Programs focused on the impacts resulting from construction of the Phase subject to development.
5. MM TRANS-4. Please consider revising this Mitigation Measure to permit preparation and submission of one or more on-site circulation plans dependent on the Phase of the Project.
6. MM TRANS-6. Please consider allowing the plans for each Phase of development to include depiction of the sidewalks along the street frontages, rather than one master plan identifying sidewalk plans throughout the Project site.

Comment No. 2: Agricultural Resources/MM AG-1b

Mitigation Measure AG-1b requires the High School to either participate in the City of Morgan Hill Agricultural Preservation Program or, if that Program is not established, to participate in the Santa Clara County agricultural preservation program. The High School does not object to participation in either program, but requests that this Mitigation Measure be modified to provide for (i) participation in the program based on the number of acres developed in each Phase of construction of the Project, versus the entire Project concurrent with Phase I, and (ii) consideration of phased on-site preservation. With regard to the later, the High School would appreciate the City's consideration of allowing the High School to self-mitigate the initial construction by use of the remaining property for agricultural purposes, until such time as the remaining property is needed for development, at which time the full mitigation required by MM AG-1b would be implemented. The High School believes there is the

opportunity to use the remaining property for educational agricultural purposes consistent with the Agricultural Preservation Program and would appreciate the opportunity to further discuss the same with the City.

Comment No. 3: Biological Resources/MM BIO-6b

This Mitigation Measure requires the High School to comply with the Santa Clara Valley HCP/NCCP, and suggests that the only means of doing so are to pay all applicable HCP/NCCP fees. The HCP/NCCP, however, provides limited opportunities for no payment of fees if a No Take Letter is obtained based on a Biological Opinion. Although the High School has not yet determined whether it will seek an exemption, it would like this Mitigation Measure modified to recognize this possibility. Additionally, the High School requests that this Mitigation Measure be modified to recognize phased payment of the applicable HCP/NCCP fees, if an exemption is not sought, based on the amount of acreage actually disturbed for each phase of development.

Comment No. 4: Hazards and Hazardous Materials/MM HAZ-4

Mitigation Measure MM HAZ-4 requires the High School to provide two points of vehicular access to meet California Fire Code requirements. The High School does not object to this requirement, but requests that it be modified to clarify that the second point of access may be an Emergency Vehicle Access road limited to use by emergency vehicles.

Comment No. 5: Hydrology and Water Quality/Impact HYD-2

The High School requests that clarification be made to the section discussing the High School Site on page 3.8-19 to recognize the ability of the High School to use the agricultural wells on the site for irrigation purposes, rather than using potable water provided by the City to serve this purpose. The High School understands that and has agreed to install three water lines within the Property as the project is constructed in phases. One line will be used for potable water, the second line will be used to provide water for the fire department, and the third will be used for irrigation purposes and will initially be hooked up to the wells located on the Property, but may be switched to the city lines if there is ever an issue with use of the wells located on the property.

Comment No. 6: Public Services and Recreation/Impact PSR-4

The High School requests that clarification be made to the section discussing the High School on page 3.12-25 to recognize that the High School will most likely not have an on-campus library, but rather an academic resource center. As the needs change, this particular facility will likely evolve to rise to the technological demands of the time.

Comment No. 7: Utility Systems/Impact US-1

The High School understands and accepts the obligation to extend the current water lines from the existing location in Condit to the Project site, but requests that clarification be added to the section titled Infrastructure on Page 3.14-39 to the effect that (i) the High School will not be required to extend the water lines beyond the point of access required for development of the Project, and (ii) the City will enter into reimbursement agreements with the High School for repayment of a portion of the cost to install the water lines from developers who connect to the same line at a future date.

Comment No. 8: Utilities Systems/Impact US-2

The High School requests that clarification be added to the section titled High School Site (Project Level) on Page 3.14-41 regarding its obligation to extend the sewer system 1,000 feet south in Murphy Ave. As presently drafted,

this provision appears to be an absolute, yet the following paragraph provides the High School with the discretion to determine what types of onsite facilities are necessary to reach the sewer system presently in Barrett Ave. If the High School is able to grade the Project site in such a way to avoid any access needs in Murphy Ave., there would not be a need to extend the sewer system 1,000 feet south in Murphy Ave. The same foregoing analysis applies to the need for a lift station in Murphy Ave. Please consider revising this section to state that the High School's obligation to build the facilities in Murphy Ave. (1,000 feet of pipe and the lift station) arise only if the High School requires use of the same. Should that occur, the High School also seeks clarification that the City will enter into reimbursement agreements with the High School for repayment of a portion of the cost to install the water lines from developers who connect to the same facilities at a future date.

Comment No. 9: Utility Systems/MM US-3B

The High School requests that this Mitigation Measure be modified to state that if the High School is able to design the Project site so that only onsite retention is necessary (no stormwater will flow off site and into the City's municipal storm drainage system), the High School will not be required to pay any sort of stormwater development impact fee.

Thank you for the opportunity to comment on the DEIR. Please do not hesitate to contact either of us or Andy Pashby, at 408.210.9191, if you have any questions with regard to the foregoing. We look forward to working with you and the City throughout the EIR process and planning and development of the Project.

Best Regards,

Katharine L. Hardt-Mason

George Chiala

Katharine L. Hardt-Mason

cc: Andy Pashby
Susan Krajewski

From: JULIE BORINA DRISCOLL [julieboridriscoll@sbcglobal.net]
Sent: Wednesday, February 19, 2014 1:02 PM
To: Rebecca Tolentino; mike@mikewasserman.com
Cc: Mike Wasserman; Steve Tate; Steve Rymer; Larry Carr; Marilyn Librers; Dave Cortese(BOS); Ken Yeager; cindy.chavez@bos.co.santa-clara.ca.us; joe.simitian@bos.sccgov.org; mmoore@morganhilltimes.com; san.francisco@ic.fbi.gov; jRosen@da.sccgov.org; jBoyarsky@da.sccgov.org; san.francisco@ic.fbi.gov; Carl Hilbrants; craig.farley@fire.ca.gov; steve.ross@pln.sccgov.org
Subject: Re: MH EIR Issues - Professional Competency Reviews on Recycling Costs

Thank you, Rebecca.

I have letters to Governor Jerry Brown and Attorney Kamala Harris enroute to promote the idea of professional competency reviews for public service employees and consultants hired, that seem to ignore the real issues of agriculture passe, for the better portion of 10 years.

I wish to be forthright with the following, please. I believe that all the professionals involved in the current SEQ review should be aware of the following, after approximately ten years of agricultural infeasibility speeches and the costs it takes to recycle the entire process for the SEQ, which sometimes brings in high priced consultants to preach a model, with credit where credit is due, that works in other areas of California, but so inappropriate and non-applicable for the Southeast Quadrant property area, based upon parcel sizes right at the outset. A waste of time and money, that could be better spent elsewhere, within the Community infrastructure.

My understanding is that local governments receive up to 75% of their funding from federal and state governments. This criteria, should provide jurisdiction as to how the funding is spent. We, in California, have a situation, as an example, where the educational system is ranked 45 out of 48 states. Education can instead use the funding to bring up the rear to a level to be closer to the top benefitting all, so to speak, rather than recycle the same agriculture is passe cycle for the SEQ, on intervals that span the better portion of 10 years. Property owners and their experiences have been ignored too long, so one asks--is there a professional competency analysis that needs to be performed by the funding sources?

I am writing to Governor Brown and Attorney General Kamala Harris on the topic of public professional competency reviews for public service employees and/or consultants that cities/counties hire, as there are needs

to use taxpayer and public funding in ever increasing judicious ways, with budget cutbacks and budget deficits, at the City and County levels.

I do not think any City should be hiring professional consultants that do not understand basic common financial economics in agriculture, A-Z, and the entire scope of compliance factors that are intertwined with the employment crews, that harvest agriculture. Everything A-Z, in 2014, needs to be analyzed, then the professional competency of public employees and/or consultants analyzed, as why there seems to be extreme difficulty in understanding the mathematical basics of agriculture in the SEQ, with barren fields with weeds.

This is especially so when it seems that public service officials, affecting properties and economic well-being of property owners, ignore the issues, that mandate the compliance to State and Federal laws. It may be that it is extremely difficult to comprehend, or competency in comprehension is at the root of it all. Whatever--a system by the State of California, whereby property owners can submit their commentary on Agricultural Preservation Reviews, as an example, after approximately TEN years of recycling the reasons why economically it cannot be afforded, can be submitted to the higher funding levels--State and Federal levels.

Providing an example--for approximately 10 years now, property owners in the Southeast Quadrant have given countless speeches on the impracticality and economic infeasibility of agriculture in the Southeast Quadrant. We go through expensive meetings, publications, EIR reviews, consultants are brought in who solicit comments--but it seems it is all ignored, as here it is in 2014, we are on square one again. The speeches recycle, as here we are again, approximately 10 years later, with time, effort and money, recycling the same speeches. At the root--economic infeasibility.

Meanwhile, our local governments are struggling with budget deficits.

There is a lack of comprehension and understanding, as it seems, as we are not progressing forward with changes that will rise up to the occasion of 2014, comply to the laws of 2014, etc. Every time, the speeches seem to be ignored, with this cycle of repetition.

This is why I believe, for the best interest of all involved, to include the funding usage from the State of California and the United States government, when this occurs, there should be professional competency reviews conducted as to why there seems to be deficiencies in understanding the realities of agriculture passe in the SEQ, for ten years. Why cannot those who recycle these meetings understand the financial economics

that render the classification of agriculture, MOOT, in the SEQ? Why the difficulty in understanding is my question--to merit recycling for ten years?

Why cannot all involved listen to the property owners, their experiences and take appropriate actions to find land uses that will profit the property owners, the communities, find better usages for state and federal funding, in the community for the future, where it is needed?

This, would be such a sensible and professionally competent approach to take in the SEQ, by qualified professionals--to find the most profitable and lucrative in approaches.

OR, are the people who are recycling, professionally competent to maximize and optimize on State and Federal funding? This is where the public service employee/consultant competency review, whenever recycling of this nature, at regular intervals occurs for an extended period of time, like ten years, would be so very valuable.

My letter to Governor Brown and State Attorney General Kamala Harris is enroute in this regard, accompanied by pictures of agricultural passe, in the SEQ. I will ask them to review the entire package.

Best regards, Julie 2/19/2014

Julie Borina Driscoll, Trustee and FLP General Partner
Borina Trust and Borina Enterprises, LP

From: JULIE BORINA DRISCOLL [julieboridriscoll@sbcglobal.net]
Sent: Wednesday, February 19, 2014 5:40 PM
To: Rebecca Tolentino
Subject: Re: MH EIR Issues - Professional Competency Reviews on Recycling Costs

Thank you, Rebecca. This EIR progress is so important, as it will bring very positive and new changes to Morgan Hill. Very excited about the new Catholic School progress, as well as the American Institute of Mathematics Castle, progressing forward with the PGA Tour course. I have very positive hopes all will benefit as a result. Julie 2/19/2014

Julie Borina Driscoll, Trustee and FLP General Partner
Borina Trust and Borina Enterprises, LP

File: 25417
Various

February 24, 2014

Ms. Rebecca Tolentino
City of Morgan Hill - DSC
17575 Peak Avenue
Morgan Hill, CA 95037

Subject: Agricultural Lands Preservation Program and Southeast Quadrant (SEQ) Land
Use Plan

Dear Ms. Tolentino:

The Santa Clara Valley Water District (District) has reviewed the Draft Environmental Impact Report (DEIR) for the subject program and general plan amendment, received on December 23, 2013. The District greatly appreciates the City of Morgan Hill's accommodation of our request to submit comments on January 24, 2014. The District has the following comments on the DEIR:

Section 3.8 Hydrology and Water Quality

- The Groundwater Levels and Quality section (page 3.8-4) notes that nitrate is detected in some private wells above drinking water standards in the Llagas Subbasin. It should also be noted that perchlorate is also found at levels above drinking water standards in some private wells due to a contaminant release site located in Morgan Hill.
- Exhibit 3.8-1 should be amended to include FEMA floodways located in the SEQ area.
- Page 3.8-8 states that where runoff reduction through Low Impact Development is not feasible, "infiltration basins, dry wells, constructed wetlands, etc are encouraged." The District discourages the use of dry wells as they bypass the natural filtering capacity of soils and provide a potential source of contamination to groundwater.
- In Section 3.8.6, the impact analysis for HYD-1 (beginning on Page 3.8-14) states that the expansion of the City's Urban Service Area boundary would make 305 acres eligible for municipal sewer service but that the 454-acre eastern portion of the SEQ area proposed to be Open Space (Planned Development), would be served by septic systems. The impact analysis for HYD-1 states that compliance with the Santa Clara County Code of Ordinances Section B11-60 would ensure that onsite septic systems do not create adverse water quality impacts. Due to elevated nitrate in the Llagas Subbasin, the District would like to review the

project-level analyses for the areas to be served by septic systems, as they become available. It should also be noted that Santa Clara County Ordinance B11-60 allows the director to require additional technical studies where septic systems may have cumulative impacts on groundwater.

- The impact analysis for HYD-1 and mitigation measures MM HYD-1a and MM HYD-1b should include discussion and requirements for compliance with the City's Post Construction Stormwater Pollution Prevention Ordinance rather than solely focusing on impacts created during construction.
- The impact analysis for HYD-1 notes that future development within the SEQ area has the potential to result in new sources of polluted runoff and that future development will be required to employ onsite or offsite retention which will serve to "sequester pollutants in soil." This section also notes that soils within the SEQ area are highly permeable and that runoff within the area infiltrates to the water table relatively quickly. While soil has some natural filtering ability, it is not infinite, and not all contaminants bind to soil. Future development should include natural or engineered pretreatment, if needed, to minimize the risk of groundwater degradation.
- The DEIR finds that the proposed project demands of approximately 610,800 gallons per day would not substantially deplete groundwater supplies (HYD-2, beginning on Page 3.8-14) while acknowledging that the actual "new demand" is unknown as detailed information regarding existing groundwater use within the SEQ area is not known.

According to District records, there are over 135 individual wells that reported groundwater production within the SEQ area between 2007 and 2012, with an average total pumping of about 580 acre-feet per year. The projected DEIR demands of 610,800 gallons per day equate to about 684 acre-feet per year (AFY), which is greater than current use within the SEQ area. As the Llagas Subbasin is the sole source of drinking water in the SEQ area, potential impacts to groundwater supplies from increased demand should be further evaluated. It should also be noted that the projected demands presented in this section do not match other estimates presented in Section 3-14 and Appendix J.

- Beginning on Page 3.8-20, the impact analysis for HYD-3 briefly discusses the need for upgraded storm drain systems and then refers to Mitigation Measures US-3a and US-3b for more detail. Mitigation Measures US-3a and US-3b refer to the use of regional or project specific retention ponds which would limit runoff to pre-development levels. However, there is mention that if retention ponds are not feasible, then connection to the City's storm drain system will be pursued. Both these sections should include discussion on the current capacity of the existing receiving streams, which may or may not be Madrone Channel or one of the other tributaries mentioned on Page 3.8-22, such as Tennant Creek, Foothill Creek, Maple Creek, etc. If receiving streams, including Madrone Channel, currently do not have capacity for more frequent storm events, such as a 3-year event, then mitigation for increased runoff must include these more frequent storm events. Additionally, downstream of the SEQ receiving streams, the District is planning the Upper Llagas Creek flood protection project. The land use used for the hydrology of the Upper Llagas Creek flood protection project is agricultural. After a review of the hydrology model for the District's project, it was determined that the maximum impervious surface area used for the SEQ area was 16 percent. Mitigating for additional runoff from any developed portions of the SEQ

area, including the high school site, may need to address both increased runoff which exceeds the existing capacity of receiving streams and which may exceed the capacity of planned downstream improvements, depending on timing of development and the timing of the downstream improvements. This mitigation also extends to any City storm drain improvements to accommodate increased runoff.

- Page 3.8-21 notes that all existing storm drains outfall into Madrone Channel, which is a managed recharge facility that replenishes groundwater in the Llagas Subbasin. The District recommends that the City consider the quality of stormwater that will be discharged as a result of the proposed project and include natural or engineered pretreatment, if needed, to minimize the risk of groundwater degradation.

Section 3-14.2 Utility Systems, Environmental Setting, Groundwater Sources

- The DEIR states that groundwater is the City of Morgan Hill's sole water supply source. This section should also acknowledge that there are more than 135 privately owned wells within the SEQ area, and that there are many other well owners that also rely on groundwater from the Llagas Subbasin.
- This section should be updated to conform with the CA Department of Water Resources (DWR) Bulletin 118 (2003 Update) and the Santa Clara Valley Water District's current Groundwater Management Plan (2012)¹. Note that Santa Clara County includes two subbasins; the Santa Clara Subbasin (DWR Subbasin 2-9.02) and the Llagas Subbasin (DWR Subbasin 3-3.01). It is unclear why the Santa Clara Subbasin (including the Coyote Valley) is discussed in the DEIR as the SEQ area overlies only the Llagas Subbasin.
- The values for long-term natural groundwater yield and multiple dry year natural groundwater yield on page 3-14.2 should be revised to match Table 3-4 of the District's 2010 Urban Water Management Plan (UWMP).
- The reference to 18 major District recharge ponds in the Llagas Subbasin is incorrect (page 3-14.2). Managed recharge facilities in the Llagas Subbasin include the Madrone Channel, Main Avenue Ponds, San Pedro Ponds, Uvas Creek, and Llagas Creek.
- The DEIR states that "all water is treated at the wellhead with chlorine to assure quality." This should be revised to indicate this statement applies to the City of Morgan Hill well water.

Section 3-14.6 Utility Systems, Project Impacts and Mitigation Measures

- Table 3.14-8 presents SEQ demands of 779 AFY for urbanized areas to be serviced by the City. This appears to be a 20% reduction from the total projected use of 973 AFY in accordance with the SB 7x-7 requirements, although it is not noted on the table. Throughout Section 3.14, there are conflicting values with regard to the water use reduction (10% versus 20%) and the resulting projected SEQ water demands (876 AFY versus 779

1

http://www.valleywater.org/Services/Clean_Reliable_Water/Where_Does_Your_Water_Come_From/Groundwater/2012_Groundwater_Management_Plan.aspx

AFY). All text and tables within the section should be revised as needed and all assumptions should be clearly noted.

- Table 3.14-8 estimates that water demands for existing land use within the SEQ area are 2,193 AFY. This is based on an agricultural water demand coefficient of 1.7 acre-feet/acre per the District's 2010 UWMP. However, actual groundwater use reported within the SEQ area between 2007 and 2012 averages only 580 AFY, which corresponds to a demand coefficient of about 0.45 acre-feet per acre. Applying this coefficient to the 732 acres of land that will remain open space or rural/agricultural results in total SEQ water demands of 1206 AFY (876 AFY for urbanized SEQ areas and 330 AFY for rural/agricultural use). **Based on reported groundwater use within the SEQ area, the net water use impact of the proposed land use changes would therefore be an increase of approximately 626 AFY.** Potential impacts associated with this increase should be further evaluated.
- Page 3-14.26 states: "Of the 1,290 acres within the SEQ Area, 759 acres are proposed to be annexed into the City and are anticipated to urbanize. However, only 305 of the 759 acres will be included in the City's USA and receive City water." Table 3.14-8 conflicts with this statement as it shows 558 acres will be urbanized and serviced by the City. This should be clarified or corrected as needed.
- The District assumes that the private system that would serve the proposed Chiala Planned Development Estate Residential uses would also be relying on groundwater from the Llagas Subbasin.
- This section includes a reference to Sacramento and the Central Valley Regional Water Quality Control Board on page 3-14.9 that should be corrected.

Appendix J - Water Supply Assessment

- Section 5.3 (Impact of Land Use Conversion from Agricultural to Urbanized Use) overestimates existing rural and agricultural use within the SEQ area. As noted in the comments on Section 3-14, the reported groundwater use within the SEQ area averages about 580 AFY. Assuming a similar water use coefficient for the 732 acres that will remain unchanged results in a net increase in water demands of approximately 626 AFY.

Groundwater is the sole source of drinking water in the Morgan Hill area, and it is assumed that the water supply for the entire SEQ area would be the Llagas Subbasin. As noted in the City's 2010 UWMP, groundwater levels in the area are strongly dependent on annual rainfall. The Morgan Hill area is also highly dependent on managed recharge, which may be reduced or suspended in dry years such as this one. The potential effects of increased pumping on groundwater resources and other groundwater users within the Llagas Subbasin should be fully evaluated.

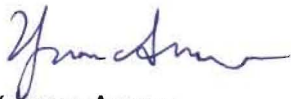
- Section 7.0 on the Groundwater Basin should be revised (see comments under the second bullet for 3.14-2). The references to the District's 2003 Integrated Water Resources Plan should also be updated as needed to ensure the information corresponds to the District's 2012 Water Supply and Infrastructure Master Plan.

February 24, 2014

- The supply and demand comparison (page 8 and related tables) should be updated to reflect current use in the SEQ area as described above, and the ability to meet projected demands should be re-evaluated accordingly.
- Page 8 of the Water Supply Assessment contains several statements that the Llagas Subbasin and the Coyote Valley have a total reliable supply of 15,946 AFY. These statements should be reworded to clarify this relates to the City of Morgan Hill's pumping capacity. There are many other users that also rely on groundwater from the Coyote Valley and Llagas Subbasin.
- Figure 3 should be revised. It appears this is based on Table 5.4.3 from the City's 2010 UWMP, however this table appears to contain an error. When compared to Tables 4.1.1 and other text within the chapter (e.g., page 4-10), it appears the water supply sources are reversed as the Llagas Subbasin provides the majority of supply for the City of Morgan Hill.
- As noted previously, there are conflicting values given for the projected water demands (876 AFY in Table 2 versus 779 AFY in Table 4). These values should be clarified or corrected as needed.

The District appreciates the opportunity to review the DEIR for the subject program and project. Please contact me at (408) 265-2607, extension 2319, if you have any questions regarding these comments.

Sincerely,



Yvonne Arroyo
Associate Engineer
Community Projects Review Unit

cc: S. Tippetts, Y. Arroyo, B. Ahmadi, V. De La Piedra, S. Katric, File

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